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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN RE: NOTICE OF PROPOSED RULEMAKING

RM 04-02

LSA Document #04-144

**COMMENTS OF THE INDIANA OFFICE
OF UTILITY CONSUMER COUNSELOR**

The following are the Indiana Office of Utility Consumer Counselor's (OUCC) initial comments regarding the Indiana Utility Regulatory Commission's (IURC) Proposed Rule RM 04-02 (LSA Document #04-144). As the statutory representative of consumer interests, these initial comments reflect the OUCC's efforts to balance the impact of these proposed changes on, differently situated utility consumers.

The OUCC is generally supportive of the IURC's proposed changes. In particular, the increased uniformity of language and location across utility types will benefit all who work with these rules - including consumers, utilities, advocates and regulators; Confusion will be reduced and time will be saved.

The OUCC has a number of specific initial comments and edits it recommends to the proposed rule. The OUCC's initial comments are outlined below first in summary by topic and then in greater detail following the chronological order used in LSA Document #04-144.

Finally, the OUCC's recommended edits to specific language in the proposed rule are "redlined" in a Word version of LSA Document #04-144 included as Attachment 1 at the end of these comments.

1. SUMMARY OF INITIAL COMMENTS BY TOPIC

Creditworthiness: Credit Score

The OUCC believes the IURC should not alter its current rules to allow the use of credit scores to determine a customer's creditworthiness. Instead, the OUCC supports modifying the criteria now used in the IURC's current rules.

The OUCC's proposed modifications described in detail below would provide utilities the assurance needed to extend credit while allowing consumers several ways to demonstrate their creditworthiness. This flexibility will better accommodate the wide variety of situations different consumers may find themselves in when applying for utility service.

Should the IURC elect to further explore the use of credit scores to determine a customer's creditworthiness, the OUCC recommends that technical conferences be held to address the issues involved. Further, should the IURC elect to allow the use of credit scores as a part of this rulemaking, the OUCC recommends that such use be allowed only as one optional means of demonstrating creditworthiness with alternative means available for use at the consumer's discretion.

Creditworthiness: Social Security Number

The OUCC recommends that the IURC add a new provision in this rulemaking that would require utilities to inform consumers of reasonable alternative methods for establishing positive identification, creditworthiness, etc. that would not require a consumer to disclose his or her Social Security Number.

Deposits: Amount

While the OUCC supports the proposed rule's maximum deposit of 1/6 of estimated annual billings, the OUCC believes that more consumers would benefit – particularly those that have creditworthiness issues – by participating in utility budget billing programs. As a result, the OUCC recommends that the maximum deposit for electric and natural gas deposits be limited to 1/12 if the consumer elects to enroll in the utility's budget bill program during a non-peak use billing period: April through August for natural gas or electric heat or October through February for electric air conditioning.

Deposits: Installment Payments

The OUCC supports the proposed rule's language which would allow consumers to pay deposits of more than \$150 in three monthly installments. The OUCC also recommends that the proposed rules allow consumers to pay deposits of more than \$70 but less than \$150 in two monthly installments. This accommodation would be especially beneficial to a consumer securing housing

on their own for the first time and who may be required to pay a deposit on each utility service.

Payment Arrangements: Winter Reconnection

The OUCC supports the proposed rule's new "winter reconnection" provisions allowing for reconnection of natural gas and electric utility service from December 1 through March 15 after payment of 20% of any arrearage, 20% of any required deposit and the balances on a payment arrangement. However, the OUCC recommends that this provision be limited in two ways:

- Only consumers with incomes equal to or less than 250% of the federal poverty level may utilize this provision; and
- Eligible consumers may use this provision only once per winter heating season.

The OUCC believes these limitations better balance this utility policy response to address what is in many cases the larger, multi-faceted social issue of affordable housing. As revised, the rule will provide a more limited, short-term winter heating safety net for consumers with a demonstrated need.

Customer Complaint Reports

The OUCC recommends that the OUCC be added as an entity that may request a report from a utility summarizing certain information about consumer complaints received by the utility for the past twelve (12) months. There have been occasions in the past when such authority would have been useful in

investigating and addressing concerns before or possibly without the need for a formal proceeding at the IURC. The OUCC believes that having this option would periodically be of great assistance in performing its duty as the representative of utility consumer interests.

Uniform Section Numbering

The OUCC believes that all parties – consumers, utilities, advocates and regulators – will benefit from further amending the proposed rules in the Telecom Article (7) and the Sewer Article (8.5) so that section numbers and content mirror that identical numbering and content plan already found in the Electric, Gas and Water Articles (4,5 and 6, respectively).

2. DETAIL OF INITIAL COMMENTS BY CITATION/CHRONOLOGICAL ORDER

ELECTRIC SERVICE

170 IAC 4-1.2-3 Creditworthiness guidelines

Sec. 3(a):

Non-Discriminatory Service: Age

The OUCC supports the specific enumeration of factors that may not be used to determine a customer's creditworthiness. In the spirit of nondiscrimination that has driven the revision of this section's language, the

OUCC recommends that "age" be added to this list to ensure fairness in the provision of public utility services.

Further, the OUCC also recommends that language be added to affirm that regulation of a utility under Title 8 of the Indiana Code and Title 170 of the Indiana Administrative Code does not alter, restrict or eliminate the utility's duty to comply with state & federal anti-discrimination laws.

Sec. 3(b)(1):

Creditworthiness: Credit Score

Concerning the creditworthiness of applicants or customers, the OUCC believes the proposed rule's language could be improved as described below. As a result, the OUCC recommends the proposed rule's language in this section should be rejected in favor of modifying the language that is currently in use. These recommendations are also outlined below.

Consumers should not be required to pay a deposit solely as a result of a general credit score. Instead, applicants for service should be allowed to demonstrate their history of utility bill payment or their ability to pay through reliable, alternative methods.

Proposed Rule Credit Score Concerns

- **Inefficiency, confusion and disparate treatment**

The proposed language allows each utility to establish its own credit scoring standard which virtually assures that similarly situated applicants will be

treated in disparate ways. It is also likely that a consumer may be treated differently by each of the utilities to which they apply for service.

Each of the three major credit bureaus (Transunion, Equifax, and Experian) employ a different method for computing its credit score and uses potentially different information about the applicant to determine his/her score. As a result, one utility could require a deposit where another utility would not require one from the same person based on provider reliance on different credit reporting companies. Because most utility services are not effectively competitive services, applicants are unable to "shop around" for the provider with the most favorable deposit policy.

Finally, the OUCC is concerned about its ability and that of the IURC to adequately monitor and act on the hundreds of individual utility tariff filings needed to establish minimum credit scores and scoring systems as well as the frequent updates that may be required. Such an approach negates many of the efficiency benefits to be gained from the broad effort in this rulemaking to standardize rule language across utilities and types of utility service.

- Lack of alternative means to demonstrate creditworthiness

The General Assembly has charged the IURC with assuring the public just and reasonable prices in the provision of public utility services. The legislature's directive also requires the Commission to impose a higher level of scrutiny in order to ensure equity and fairness in the provision of regulated monopoly services than would be required in the provision of competitive services. As such,

it must take great care in establishing and in ensuring the methods by which the requirement of deposits is determined. While the sole use of credit scores may be an acceptable measure of creditworthiness in a market industry, they are an overly exclusive measure with regard to a regulated market where consumers generally have no options with respect to service providers. To illustrate, if an applicant recently graduated from high school or college, presumably with no credit history, he/she would likely not be assigned any credit score. Under the proposed rule, a deposit would be required, regardless of the consumer's ability to pay, which could be demonstrated by reasonable, alternative methods such as income or work history. By not allowing alternative methods for applicants to demonstrate ability to pay, the average price paid for utility services would effectively and, in the OUCC's view, unnecessarily rise.

Further, the OUCC questions the direct correlation between a consumer's payment history for essential utility services and the payment history for all bills and the other factors used to create a general credit score.

- Sensitive Personal Financial Information

Allowing utility providers to rely on credit scores to determine a consumer's ability to pay provides them with access to sensitive personal information of its customers, including social security numbers. At a time when identify theft and erroneous credit reporting are in the news almost daily and various law enforcement and regulatory authorities advise consumers to limit the release of personal information, it would be prudent to allow consumers to

choose the type of information they want to share to demonstrate their creditworthiness. This option is described in the OUCC recommendations below.

Because utilities need only information that reasonably assures that an applicant is able to pay for service, utilities do not need nor should they have the ability to obtain significantly more personal information than is needed to make that determination. Clearly, any benefit to the utility in seeking this information must outweigh the costs caused by the invasion of privacy interests. The OUCC believes the proposed language is too harmful to consumers without showing any significant benefit to utilities.

- Applicability, impact of federal and state credit information laws

Finally, if the IURC adopted the use of credit scores as outlined in the proposed rule, the OUCC has questions about the applicability and impact of federal and state laws regarding the use of credit information on Indiana consumers and utilities. Rather than stirring up new legal questions and controversies, the OUCC believes its changes to creditworthiness criteria recommended below will provide adequate protection, administrative simplicity and equitable treatment for all consumers and utilities.

OUCC Creditworthiness Recommendations

- **Scrap Proposed and Modify Current Creditworthiness Criteria**

In place of the proposed rule's language in this section, the OUCC recommends modifying the IAC's creditworthiness standards currently in force as outlined in the attached, redlined LSA Document #04-144.

In summary, these modifications would allow an applicant for service to demonstrate creditworthiness by documenting no disconnection, no outstanding bills and no more than two late payments in the last 12 months the consumer has received the same type of utility service for which they are applying. If the consumer has not received the same type of utility service as applied for in the last 12 months, then the IAC's current language regarding employment, residence or credit extension subject to check would apply.

Should the IURC elect to further explore the use of credit scores to determine a customer's creditworthiness, the OUCC recommends that technical conferences be held to address the issues involved. Further, should the IURC elect to allow the use of credit scores as a part of this rulemaking, the OUCC recommends that such use be allowed only as one, optional means of demonstrating creditworthiness with alternative means available for use at the consumer's discretion.

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The OUCC recommends that the IURC add language to this section that requires utilities to inform consumers of reasonable alternative methods for establishing positive identification, creditworthiness, etc. that would not require a consumer to disclose his or her Social Security Number.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 4-1.2-4 Deposits

Sec. 4(a):

Deposits: Maximum Amount

While the OUCC supports the proposed rule's maximum deposit of 1/6 of estimated annual billings, the OUCC believes that more consumers would benefit – particularly those that have creditworthiness issues – by participating in utility budget billing programs. As a result, the OUCC recommends that the maximum deposit for electric deposits be limited to 1/12 if the consumer elects to enroll in the utility's budget bill program during a non-peak use billing period: April through August for electric heat or October through February for electric air conditioning.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Deposits: Installment Payments

The OUCC supports the proposed rule's language which would allow consumers to pay deposits of more than \$150 in three monthly installments. The OUCC also recommends that the proposed rules be modified to allow consumers to pay deposits of more than \$70 but less than \$150 in two monthly installments. This accommodation would be especially beneficial to a consumer securing

housing on their own for the first time and who may be required to pay a deposit on each utility service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 4(c):

Deposits: Applicant Notice

The OUCC recommends that this section of the proposed rule be amended with respect to utilities that provide both electric and natural gas service. In these cases, the OUCC believes the utility should also be required to advise the applicant or customer of the amount of the deposit assigned to each type of utility service and of the applicant or customer's right to purchase only electric or natural gas service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 4(e):

Deposits: Interest

The OUCC supports the proposed rule's movement to an annually adjusted interest rate on customer deposits held by a utility. Such an adjustment will help ensure that this interest rate more accurately reflects current market rates. However, the OUCC recommends that language be added to the proposed rule specifying that interest earned on customer deposits must be compounded

daily and credited monthly. This will ensure that customers do not receive less than the U.S. Treasury rate as an effective yield when a utility holds the customer's money as a deposit.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 4(i):

Deposits: Annual Crediting of Interest

The OUCC supports the proposed rule's provision that requires utilities to annually credit the interest generated on a customer's deposit to the customer's utility bill. However, the OUCC is concerned that the expense of this provision may outweigh the benefit to the consumer, particularly with regard to very small utilities. As a result, the OUCC recommends that this provision be amended to apply only to deposits of more than seventy-five dollars (\$75).

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 4-1.2-5 Disconnection and prohibited disconnections

Sec. 5(e)(1):

Involuntary Disconnection Notice

The OUCC recommends a minor clarification to the proposed rule's language to ensure that customers receive notice 14 days before an involuntary disconnection whether that notice comes by mail or in person.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 4-1.2-6 Payment arrangements and reconnection of service

Sec. 6(a)(3):

Public Assistance Notice

The OUCC supports this provision of the proposed rule that requires a utility's payment arrangement to give a consumer time to apply for and receive any public assistance available to assist in the payment of utility service bills. The OUCC recommends that this provision be amended to include a requirement that the utility provide such customers with contact information for the available public assistance programs of which the utility is aware.

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Sec. 6(f):

Payment Arrangements: Winter Reconnection

The OUCC supports the proposed rule's new "winter reconnection" provisions allowing for reconnection of utility service from December 1 through March 15 after payment of 20% of any arrearage, 20% of any required deposit and the balances on a payment arrangement. However, the OUCC recommends that this provision be limited in two ways:

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The OUCC believes these limitations better balance this utility policy response to address what is in many cases the larger, multi-faceted social issue of affordable housing. As revised, the rule will provide a more limited, short-term winter heating safety net for consumers with a demonstrated need.

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170 IAC 4-1.2-8 Customer Complaints to the Utility

Sec. 8(e):

Customer Complaint Reports

The OUCC recommends that the OUCC be added as an entity that may request a report from a utility summarizing certain information about consumer complaints received by the utility for the past twelve (12) months.

There have been occasions in the past when such authority would have been useful in investigating and addressing concerns before or possibly without the need for a formal proceeding at the IURC. The OUCC believes that having this option would periodically be of great assistance in performing its duty as the representative of utility consumer interests.

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170 IAC 4-1.2-10 Estimated bills

Sec. 10(e):

Meter Malfunctions/Failures: Corrected Billings

The OUCC recommends that this provision of the proposed rule be amended to disallow the recovery of more than six months lost revenue resulting from a malfunctioning or failed meter which is allowed to stay in service.

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NATURAL GAS SERVICE

170 IAC 5-1.2-3 Creditworthiness guidelines

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WATER SERVICE

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Further, the OUCC questions the direct correlation between a consumer's payment history for essential utility services and the payment history for all bills and the other factors used to create a general credit score.

- Sensitive Personal Financial Information

Allowing utility providers to rely on credit scores to determine a consumer's ability to pay provides them with access to sensitive personal information of its customers, including social security numbers. At a time when identify theft and erroneous credit reporting are in the news almost daily and various law enforcement and regulatory authorities advise consumers to limit the release of personal information, it would be prudent to allow consumers to choose the type of information they want to share to demonstrate their creditworthiness. This option is described in the OUCC recommendations below.

Because utilities need only information that reasonably assures that an applicant is able to pay for service, utilities do not need nor should they have the ability to obtain significantly more personal information than is needed to make that determination. Clearly, any benefit to the utility in seeking this information must outweigh the costs caused by the invasion of privacy interests. The OUCC believes the proposed language is too harmful to consumers without showing any significant benefit to utilities.

- Applicability, impact of federal and state credit information laws

Finally, if the IURC adopted the use of credit scores as outlined in the proposed rule, the OUCC has questions about the applicability and impact of federal and state laws regarding the use of credit information on Indiana consumers and utilities. Rather than stirring up new legal questions and controversies, the OUCC believes its changes to creditworthiness criteria recommended below will provide adequate protection, administrative simplicity and equitable treatment for all consumers and utilities.

OUCC Creditworthiness Recommendations

- **Scrap Proposed and Modify Current Creditworthiness Criteria**

In place of the proposed rule's language in this section, the OUCC recommends modifying the IAC's creditworthiness standards currently in force as outlined in the attached, redlined LSA Document #04-144.

In summary, these modifications would allow an applicant for service to demonstrate creditworthiness by documenting no disconnection, no outstanding bills and no more than two late payments in the last 12 months the consumer has received the same type of utility service for which they are applying. If the consumer has not received the same type of utility service as applied for in the last 12 months, then the IAC's current language regarding employment, residence or credit extension subject to check would apply.

Should the IURC elect to further explore the use of credit scores to determine a customer's creditworthiness, the OUCC recommends that technical

conferences be held to address the issues involved. Further, should the IURC elect to allow the use of credit scores as a part of this rulemaking, the OUCC recommends that such use be allowed only as one, optional means of demonstrating creditworthiness with alternative means available for use at the consumer's discretion.

- **Creditworthiness: Social Security Number**

The OUCC recommends that the IURC add language to this section that requires utilities to inform consumers of reasonable alternative methods for establishing positive identification, creditworthiness, etc. that would not require a consumer to disclose his or her Social Security Number.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 6-1.2-4 Deposits

Sec. 4(a):

Deposits: Installment Payments

The OUCC supports the proposed rule's language which would allow consumers to pay deposits of more than \$150 in three monthly installments. The OUCC also recommends that the proposed rules be modified to allow consumers to pay deposits of more than \$70 but less than \$150 in two monthly installments. This accommodation would be especially beneficial to a consumer securing

housing on their own for the first time and who may be required to pay a deposit on each utility service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 4(e):

Deposits: Interest

The OUCC supports the proposed rule's movement to an annually adjusted interest rate on customer deposits held by a utility. Such an adjustment will help ensure that this interest rate more accurately reflects current market rates. However, the OUCC recommends that language be added to the proposed rule specifying that interest earned on customer deposits must be compounded daily and credited monthly. This will ensure that customers do not receive less than the U.S. Treasury rate as an effective yield when a utility holds the customer's money as a deposit.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 4(i):

Deposits: Annual Crediting of Interest

The OUCC supports the proposed rule's provision that requires utilities to annually credit the interest generated on a customer's deposit to the customer's utility bill. However, the OUCC is concerned that the expense of this provision

may outweigh the benefit to the consumer, particularly with regard to very small utilities. As a result, the OUCC recommends that this provision be amended to apply only to deposits of more than seventy-five dollars (\$75).

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 6-1.2-5 Disconnection and prohibited disconnections

Sec. 5(e)(1):

Involuntary Disconnection Notice

The OUCC recommends a minor clarification to the proposed rule's language to ensure that customers receive notice 14 days before an involuntary disconnection whether that notice comes by mail or in person.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 6-1.2-6 Payment arrangements and reconnection of service

Sec. 6(a)(3):

Public Assistance Notice

The OUCC supports this provision of the proposed rule that requires a utility's payment arrangement to give a consumer time to apply for and receive any public assistance available to assist in the payment of utility service bills. The OUCC recommends that this provision be amended to include a requirement that

the utility provide such customers with contact information for the available public assistance programs of which the utility is aware.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 6-1.2-7 Customer Complaints to the Utility

Sec. 7(e):

Customer Complaint Reports

The OUCC recommends that the OUCC be added as an entity that may request a report from a utility summarizing certain information about consumer complaints received by the utility for the past twelve (12) months.

There have been occasions in the past when such authority would have been useful in investigating and addressing concerns before or possibly without the need for a formal proceeding at the IURC. The OUCC believes that having this option would periodically be of great assistance in performing its duty as the representative of utility consumer interests.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 6-1.2-9 Estimated bills

Sec. 9(e):

Meter Malfunctions/Failures: Corrected Billings

The OUCC recommends that this provision of the proposed rule be amended to disallow the recovery of more than six months lost revenue resulting from a malfunctioning or failed meter which is allowed to stay in service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

TELECOMMUNICATIONS SERVICE

170 IAC 7-1.3-3 Creditworthiness of residential customer; deposit; refund

Sec. 3(a):

Non-Discriminatory Service: Age

The OUCC supports the specific enumeration of factors that may not be used to determine a customer's creditworthiness. In the spirit of nondiscrimination that has driven the revision of this section's language, the OUCC recommends that "age" be added to this list to ensure fairness in the provision of public utility services.

Further, the OUCC also recommends that language be added to affirm that regulation of a utility under Title 8 of the Indiana Code and Title 170 of the Indiana Administrative Code does not alter, restrict or eliminate the utility's duty to comply with state & federal anti-discrimination laws.

Sec. 3(b)(1):

Creditworthiness: Credit Score

Concerning the creditworthiness of applicants or customers, the OUCC believes the proposed rule's language could be improved as described below. As a result, the OUCC recommends the proposed rule's language in this section should be rejected in favor of modifying the language that is currently in use. These recommendations are also outlined below.

Consumers should not be required to pay a deposit solely as a result of a general credit score. Instead, applicants for service should be allowed to demonstrate their history of utility bill payment or their ability to pay through reliable, alternative methods.

Proposed Rule Credit Score Concerns

- **Inefficiency, confusion and disparate treatment**

The proposed language allows each utility to establish its own credit scoring standard which virtually assures that similarly situated applicants will be treated in disparate ways. It is also likely that a consumer may be treated differently by each of the utilities to which they apply for service.

Each of the three major credit bureaus (Transunion, Equifax, and Experian) employ a different method for computing its credit score and uses potentially different information about the applicant to determine his/her score. As a result, one utility could require a deposit where another utility would not require one from the same person based on provider reliance on different credit reporting companies. Because most utility services are not effectively competitive services,

applicants are unable to “shop around” for the provider with the most favorable deposit policy.

Finally, the OUCC is concerned about its ability and that of the IURC to adequately monitor and act on the hundreds of individual utility tariff filings needed to establish minimum credit scores and scoring systems as well as the frequent updates that may be required. Such an approach negates many of the efficiency benefits to be gained from the broad effort in this rulemaking to standardize rule language across utilities and types of utility service.

- Lack of alternative means to demonstrate creditworthiness

The General Assembly has charged the IURC with assuring the public just and reasonable prices in the provision of public utility services. The legislature’s directive also requires the Commission to impose a higher level of scrutiny in order to ensure equity and fairness in the provision of regulated monopoly services than would be required in the provision of competitive services. As such, it must take great care in establishing and in ensuring the methods by which the requirement of deposits is determined. While the sole use of credit scores may be an acceptable measure of creditworthiness in a market industry, they are an overly exclusive measure with regard to a regulated market where consumers generally have no options with respect to service providers. To illustrate, if an applicant recently graduated from high school or college, presumably with no credit history, he/she would likely not be assigned any credit score. Under the proposed rule, a deposit would be required, regardless of the consumer’s ability

to pay, which could be demonstrated by reasonable, alternative methods such as income or work history. By not allowing alternative methods for applicants to demonstrate ability to pay, the average price paid for utility services would effectively and, in the OUCC's view, unnecessarily rise.

Further, the OUCC questions the direct correlation between a consumer's payment history for essential utility services and the payment history for all bills and the other factors used to create a general credit score.

- Sensitive Personal Financial Information

Allowing utility providers to rely on credit scores to determine a consumer's ability to pay provides them with access to sensitive personal information of its customers, including social security numbers. At a time when identify theft and erroneous credit reporting are in the news almost daily and various law enforcement and regulatory authorities advise consumers to limit the release of personal information, it would be prudent to allow consumers to choose the type of information they want to share to demonstrate their creditworthiness. This option is described in the OUCC recommendations below.

Because utilities need only information that reasonably assures that an applicant is able to pay for service, utilities do not need nor should they have the ability to obtain significantly more personal information than is needed to make that determination. Clearly, any benefit to the utility in seeking this information must outweigh the costs caused by the invasion of privacy interests. The OUCC

believes the proposed language is too harmful to consumers without showing any significant benefit to utilities.

- Applicability, impact of federal and state credit information laws

Finally, if the IURC adopted the use of credit scores as outlined in the proposed rule, the OUCC has questions about the applicability and impact of federal and state laws regarding the use of credit information on Indiana consumers and utilities. Rather than stirring up new legal questions and controversies, the OUCC believes its changes to creditworthiness criteria recommended below will provide adequate protection, administrative simplicity and equitable treatment for all consumers and utilities.

OUCC Creditworthiness Recommendations

- **Scrap Proposed and Modify Current Creditworthiness Criteria**

In place of the proposed rule's language in this section, the OUCC recommends modifying the IAC's creditworthiness standards currently in force as outlined in the attached, redlined LSA Document #04-144.

In summary, these modifications would allow an applicant for service to demonstrate creditworthiness by documenting no disconnection, no outstanding bills and no more than two late payments in the last 12 months the consumer has received the same type of utility service for which they are applying. If the consumer has not received the same type of utility service as applied for in the

last 12 months, then the IAC's current language regarding employment, residence or credit extension subject to check would apply.

Should the IURC elect to further explore the use of credit scores to determine a customer's creditworthiness, the OUCC recommends that technical conferences be held to address the issues involved. Further, should the IURC elect to allow the use of credit scores as a part of this rulemaking, the OUCC recommends that such use be allowed only as one, optional means of demonstrating creditworthiness with alternative means available for use at the consumer's discretion.

- **Creditworthiness: Social Security Number**

The OUCC recommends that the IURC add language to this section that requires utilities to inform consumers of reasonable alternative methods for establishing positive identification, creditworthiness, etc. that would not require a consumer to disclose his or her Social Security Number.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec. 3(c):

Regulated/Unregulated Charges: Clarity and Uniformity

The OUCC believes the requirement that utility service cannot be denied for nonpayment of merchandise, non-utility items, or nonregulated services is a good addition to the rules. However, the OUCC asks for clarification on what the

Commission defines as regulated or unregulated services, as well as deniable and nondeniable services.

For example, SBC Indiana currently defines Caller Identification (\$7.95/month) and Caller Name Display (\$2.00/month) as deniable charges (presumably a regulated charge) on its bills (See Attachment 2 for a copy of an SBC bill). SBC Indiana currently classifies Voice Mail as an unregulated, nondeniable charge. Therefore, according to current SBC Indiana practice and according to the proposed new rules, SBC Indiana would disconnect and deny basic local phone service for nonpayment of Caller Identification and Caller Name Display but not for Voice Mail.

While SBC bills currently state that basic local service will be disconnected for nonpayment of Caller Identification and Caller Name Display, Verizon, Perry-Spencer, Smithville, and Rochester are examples of Indiana telecommunications companies that define Caller ID as a nondeniable or unregulated charge and will not disconnect basic local service for nonpayment of Caller ID.

With something as important as basic local phone service at stake, the OUCC requests that all carriers be required to specifically identify in their tariffs and on their monthly bills the services the carrier considers regulated or unregulated, the charges the carrier considers to be deniable or nondeniable and what this means to the customer. Utilities should also be required to use uniform definitions and classifications. Without uniform classification and application, the spirit and goals of the current and proposed rules are not met.

Sec. 3(d):

Deposits: Clarity/Uniformity of Regulated/Unregulated Charges

The OUCC applauds the language that requires a deposit to be based on local, regulated telecommunications service charges only. However, as discussed above, the OUCC requests clarification as to what is defined as a regulated or an unregulated service and what is included in the terms "deniable" and "nondeniable" charges.

As noted in the SBC Indiana example above, SBC would calculate a deposit based on charges for Caller Identification service in addition to those for local basic service while other carriers would calculate a deposit solely upon basic local service charges. The OUCC believes all carriers should classify and treat like services the same way under existing and proposed rules. Lack of uniformity yields unfair and unpredictable results.

Deposits: Installment Payments

The OUCC supports the proposed rule's language which would allow consumers to pay deposits of more than \$150 in three monthly installments. The OUCC also recommends that the proposed rules be modified to allow consumers to pay deposits of more than \$70 but less than \$150 in two monthly installments. This accommodation would be especially beneficial to a consumer securing housing on their own for the first time and who may be required to pay a deposit on each utility service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 3(l):

Deposits: Interest

The OUCC supports the proposed rule's movement to an annually adjusted interest rate on customer deposits held by a utility. Such an adjustment will help ensure that this interest rate more accurately reflects current market rates. However, the OUCC recommends that language be added to the proposed rule specifying that interest earned on customer deposits must be compounded daily and credited monthly. This will ensure that customers do not receive less than the U.S. Treasury rate as an effective yield when a utility holds the customer's money as a deposit.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 3(l):

Deposits: Annual Crediting of Interest

The OUCC supports the proposed rule's provision that requires utilities to annually credit the interest generated on a customer's deposit to the customer's utility bill. However, the OUCC is concerned that the expense of this provision may outweigh the benefit to the consumer, particularly with regard to very small

utilities. As a result, the OUCC recommends that this provision be amended to apply only to deposits of more than seventy-five dollars (\$75).

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 7-1.3-8 Customer Complaints to the Utility

Sec. 8(e):

Customer Complaint Reports

The OUCC recommends that the OUCC be added as an entity that may request a report from a utility summarizing certain information about consumer complaints received by the utility for the past twelve (12) months.

There have been occasions in the past when such authority would have been useful in investigating and addressing concerns before or possibly without the need for a formal proceeding at the IURC. The OUCC believes that having this option would periodically be of great assistance in performing its duty as the representative of utility consumer interests.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 7-1.3-10 Customer payments

Sec. 10(a)(3):

Public Assistance Notice

The OUCC supports this provision of the proposed rule that requires a utility's payment arrangement to give a consumer time to apply for and receive any public assistance available to assist in the payment of utility service bills. The OUCC recommends that this provision be amended to include a requirement that the utility provide such customers with contact information for the available public assistance programs of which the utility is aware. Further, while 170 IAC 7-1.3-11 is not currently included in this rulemaking, the OUCC also believes that LECs should be required to include information about available public assistance programs such as Lifeline and Link-Up with disconnection notices affecting local exchange service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec. 10(g):

Current Local Charges: Clarification and Uniformity

The OUCC supports the listing of the specific order in which partial payment will be applied; past due regulated, current local, then toll or unregulated. The OUCC requests clarification in the proposed rule as to what is and is not included in the term "current local."

Sec. 10(h):

Toll-Block Service

The OUCC requests that the proposed rule be amended to require all LEC's to provide toll-block service to consumers upon request and at no charge. The provision of such service will help to ensure that low-income consumers in particular are able to maintain basic local phone service necessary for health, safety and self-sufficiency without additional costs.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Uniform Section Numbering

The OUCC believes that all parties – consumers, utilities, advocates and regulators – will benefit from further amending the proposed rules in the Telecom Article (7) so that section numbers and content mirror that identical numbering and content plan already found in the Electric, Gas and Water Articles (4, 5 and 6, respectively).

SEWAGE DISPOSAL SERVICE

170 IAC 8.5-2-3 Creditworthiness guidelines; deposits to ensure payment of bill

Sec. 3(a):

Non-Discriminatory Service: Age

The OUCC supports the specific enumeration of factors that may not be used to determine a customer's creditworthiness. In the spirit of

nondiscrimination that has driven the revision of this section's language, the OUCC recommends that "age" be added to this list to ensure fairness in the provision of public utility services.

Further, the OUCC also recommends that language be added to affirm that regulation of a utility under Title 8 of the Indiana Code and Title 170 of the Indiana Administrative Code does not alter, restrict or eliminate the utility's duty to comply with state & federal anti-discrimination laws.

Sec. 3(b)(1):

Creditworthiness: Credit Score

Concerning the creditworthiness of applicants or customers, the OUCC believes the proposed rule's language could be improved as described below. As a result, the OUCC recommends the proposed rule's language in this section should be rejected in favor of modifying the language that is currently in use. These recommendations are also outlined below.

Consumers should not be required to pay a deposit solely as a result of a general credit score. Instead, applicants for service should be allowed to demonstrate their history of utility bill payment or their ability to pay through reliable, alternative methods.

Proposed Rule Credit Score Concerns

- **Inefficiency, confusion and disparate treatment**

The proposed language allows each utility to establish its own credit scoring standard which virtually assures that similarly situated applicants will be

treated in disparate ways. It is also likely that a consumer may be treated differently by each of the utilities to which they apply for service.

Each of the three major credit bureaus (Transunion, Equifax, and Experian) employ a different method for computing its credit score and uses potentially different information about the applicant to determine his/her score. As a result, one utility could require a deposit where another utility would not require one from the same person based on provider reliance on different credit reporting companies. Because most utility services are not effectively competitive services, applicants are unable to "shop around" for the provider with the most favorable deposit policy.

Finally, the OUCC is concerned about its ability and that of the IURC to adequately monitor and act on the hundreds of individual utility tariff filings needed to establish minimum credit scores and scoring systems as well as the frequent updates that may be required. Such an approach negates many of the efficiency benefits to be gained from the broad effort in this rulemaking to standardize rule language across utilities and types of utility service.

- Lack of alternative means to demonstrate creditworthiness

The General Assembly has charged the IURC with assuring the public just and reasonable prices in the provision of public utility services. The legislature's directive also requires the Commission to impose a higher level of scrutiny in order to ensure equity and fairness in the provision of regulated monopoly services than would be required in the provision of competitive services. As such,

it must take great care in establishing and in ensuring the methods by which the requirement of deposits is determined. While the sole use of credit scores may be an acceptable measure of creditworthiness in a market industry, they are an overly exclusive measure with regard to a regulated market where consumers generally have no options with respect to service providers. To illustrate, if an applicant recently graduated from high school or college, presumably with no credit history, he/she would likely not be assigned any credit score. Under the proposed rule, a deposit would be required, regardless of the consumer's ability to pay, which could be demonstrated by reasonable, alternative methods such as income or work history. By not allowing alternative methods for applicants to demonstrate ability to pay, the average price paid for utility services would effectively and, in the OUCC's view, unnecessarily rise.

Further, the OUCC questions the direct correlation between a consumer's payment history for essential utility services and the payment history for all bills and the other factors used to create a general credit score.

- Sensitive Personal Financial Information

Allowing utility providers to rely on credit scores to determine a consumer's ability to pay provides them with access to sensitive personal information of its customers, including social security numbers. At a time when identity theft and erroneous credit reporting are in the news almost daily and various law enforcement and regulatory authorities advise consumers to limit the release of personal information, it would be prudent to allow consumers to

choose the type of information they want to share to demonstrate their creditworthiness. This option is described in the OUCC recommendations below.

Because utilities need only information that reasonably assures that an applicant is able to pay for service, utilities do not need nor should they have the ability to obtain significantly more personal information than is needed to make that determination. Clearly, any benefit to the utility in seeking this information must outweigh the costs caused by the invasion of privacy interests. The OUCC believes the proposed language is too harmful to consumers without showing any significant benefit to utilities.

- Applicability, impact of federal and state credit information laws

Finally, if the IURC adopted the use of credit scores as outlined in the proposed rule, the OUCC has questions about the applicability and impact of federal and state laws regarding the use of credit information on Indiana consumers and utilities. Rather than stirring up new legal questions and controversies, the OUCC believes its changes to creditworthiness criteria recommended below will provide adequate protection, administrative simplicity and equitable treatment for all consumers and utilities.

OUCC Creditworthiness Recommendations

- **Scrap Proposed and Modify Current Creditworthiness Criteria**

In place of the proposed rule's language in this section, the OUCC recommends modifying the IAC's creditworthiness standards currently in force as outlined in the attached, redlined LSA Document #04-144.

In summary, these modifications would allow an applicant for service to demonstrate creditworthiness by documenting no disconnection, no outstanding bills and no more than two late payments in the last 12 months the consumer has received the same type of utility service for which they are applying. If the consumer has not received the same type of utility service as applied for in the last 12 months, then the IAC's current language regarding employment, residence or credit extension subject to check would apply.

Should the IURC elect to further explore the use of credit scores to determine a customer's creditworthiness, the OUCC recommends that technical conferences be held to address the issues involved. Further, should the IURC elect to allow the use of credit scores as a part of this rulemaking, the OUCC recommends that such use be allowed only as one, optional means of demonstrating creditworthiness with alternative means available for use at the consumer's discretion.

- **Creditworthiness: Social Security Number**

The OUCC recommends that the IURC add language to this section that requires utilities to inform consumers of reasonable alternative methods for establishing positive identification, creditworthiness, etc. that would not require a consumer to disclose his or her Social Security Number.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec. 3(e):

Deposits: Installment Payments

The OUCC supports the proposed rule's language which would allow consumers to pay deposits of more than \$150 in three monthly installments. The OUCC also recommends that the proposed rules be modified to allow consumers to pay deposits of more than \$70 but less than \$150 in two monthly installments. This accommodation would be especially beneficial to a consumer securing housing on their own for the first time and who may be required to pay a deposit on each utility service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 3(h):

Deposits: Interest

The OUCC supports the proposed rule's movement to an annually adjusted interest rate on customer deposits held by a utility. Such an adjustment will help ensure that this interest rate more accurately reflects current market rates. However, the OUCC recommends that language be added to the proposed rule specifying that interest earned on customer deposits must be compounded daily and credited monthly. This will ensure that customers do not receive less

than the U.S. Treasury rate as an effective yield when a utility holds the customer's money as a deposit.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec 3(k):

Deposits: Annual Crediting of Interest

The OUCC supports the proposed rule's provision that requires utilities to annually credit the interest generated on a customer's deposit to the customer's utility bill. However, the OUCC is concerned that the expense of this provision may outweigh the benefit to the consumer, particularly with regard to very small utilities. As a result, the OUCC recommends that this provision be amended to apply only to deposits of more than seventy-five dollars (\$75).

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 8.5-1-4 Disconnection and prohibited disconnections

Sec. 4(c)(2)(F)(iii):

Public Assistance Notice

The OUCC supports this provision of the proposed rule that requires a utility's payment arrangement to give a consumer time to apply for and receive any public assistance available to assist in the payment of utility service bills. The OUCC recommends that this provision be amended to include a requirement that

the utility provide such customers with contact information for the available public assistance programs of which the utility is aware.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Sec. 4(e)(1):

Involuntary Disconnection Notice

The OUCC recommends changing the current 7 day notice to 14 days to make it consistent with the notice required for involuntary disconnection of water service.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

170 IAC 8.5-2-5 Complaints and review

Sec. 5(a)(2)(H):

Customer Complaint Reports

The OUCC recommends that the OUCC be added as an entity that may request a report from a utility summarizing certain information about consumer complaints received by the utility for the past twelve (12) months.

There have been occasions in the past when such authority would have been useful in investigating and addressing concerns before or possibly without the need for a formal proceeding at the IURC. The OUCC believes that having this option would periodically be of great assistance in performing its duty as the representative of utility consumer interests.

The OUCC's suggested language is included in the attached, redlined LSA Document #04-144.

Uniform Section Numbering

The OUCC believes that all parties – consumers, utilities, advocates and regulators – will benefit from further amending the proposed rules in the Sewer Article (8.5) so that section numbers and content mirror that identical numbering and content plan already found in the Electric, Gas and Water Articles (4,5 and 6, respectively).

Attachment 1

**OUCC “Redlined” Version of LSA Document #04-144
with Language Edit Recommendations**

OUCC Comments on IURC RM 04-02
November 12, 2004

Document: Proposed Rule, Register Page Number: 27 IR 4056

Source: September 1, 2004, Indiana Register, Volume 27, Number 12

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

**TITLE 170 INDIANA UTILITY REGULATORY
COMMISSION**

**Proposed Rule
LSA Document #04-144**

DIGEST

Adds 170 IAC 4-1.2, 170 IAC 5-1.2, and 170 IAC 6-1.2 to establish new customer service rights and responsibility rules for electric, gas, and water utilities. Amends 170 IAC 7-1.3-2, 170 IAC 7-1.3-3, 170 IAC 7-1.3-8, 170 IAC 7-1.3-9, and 170 IAC 7-1.3-10 regarding telecommunications customer service rights and responsibilities. Amends 170 IAC 8.5-2 regarding sewage disposal service customer rights and responsibilities. Repeals 170 IAC 4-1-15, 170 IAC 4-1-16, 170 IAC 4-1-16.5, 170 IAC 4-1-16.6, 170 IAC 4-1-17, 170 IAC 5-1-15, 170 IAC 5-1-16, 170 IAC 5-1-16.5, 170 IAC 5-1-16.6, 170 IAC 5-1-17, 170 IAC 6-1-15, 170 IAC 6-1-16, and 170 IAC 6-1-17. Effective 180 days after filing with the secretary of state.

170 IAC 4-1-15	170 IAC 6-1-16
170 IAC 4-1-16	170 IAC 6-1-17
170 IAC 4-1.2 IS ADDED TO READ AS FOLLOWS:	
170 IAC 4-1-16.6	170 IAC 7-1.3-2
170 IAC 4-1.2 Electric Customer Service Rights and Responsibilities	
170 IAC 4-1.2	170 IAC 7-1.3-8
170 IAC 4-1.2-1 Applicability and scope	
Authority: IC 8-1-1-3; IC 8-1-2-34.5	
Affected: IC 8-1-2	

Sec. 1. (a) This rule applies to any:

- (1) electric public utility; and
- (2) rural electric membership corporation;

that is now, or may hereafter be, engaged in the business of rendering service to the public under the jurisdiction of the commission.

(b) This rule creates the minimum level of service that a utility is expected to meet when providing reasonable quality electric utility services to the public and to establish the obligations of both the utility and the customer.

(c) No utility shall discriminate against or penalize a customer for exercising any right granted by this rule. If a utility's tariff on file with the commission contains provisions that conflict with this rule, this rule shall supersede any conflicting tariff provisions.

(d) Any utility subject to this rule that fails to meet the standards herein shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and hearing, the commission may order lawful enforcement mechanisms against a public utility that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any public utility fails to comply.

(e) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

- (1) Altering or amending this rule in whole or in part.
- (2) Requiring any other or additional service, equipment, facility, or standard.
- (3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.
- (4) Requiring a utility to comply with any other service standards.
- (5) At its sole discretion, granting, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

The adoption of this rule shall not in any way relieve any utility from any of its duties under the law of this state or rules and orders of the commission.

(f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, the provision shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-1*)

170 IAC 4-1.2-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-1; IC 8-1-13

Sec. 2. The following definitions apply throughout this rule:

- (1) "Applicant" means any person or designated agent who seeks to become a customer for residential electric utility service.
- (2) "Commission" means the Indiana utility regulatory commission.
- (3) "Customer" means any person who requests and obtains residential utility service and is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
- (4) "Disconnection" means the termination or discontinuance of utility service.
- (5) "Late payment charge" means the one-time penalty assessed by a utility on a customer's account when the account becomes delinquent.
- (6) "Residential service" means electric utility service for household purposes that is billed under a residential rate.
- (7) "Utility" or "public utility" means any public utility (as defined in IC 8-1-2-1) or any rural electric membership corporation (as established by IC 8-1-13) that furnishes electric service to the public under the jurisdiction of the commission.

(*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-2*)

170 IAC 4-1.2-3 Creditworthiness guidelines

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 3. (a) A utility shall determine the creditworthiness of an applicant or customer in an equitable and nondiscriminatory manner:

- (1) without regard to:
 - (A) race;
 - (B) color;
 - (C) creed;
 - (D) religion;
 - (E) national origin;
 - (F) sex;
 - (G) marital status;
 - (H) receipt of public assistance; or
 - (I) the economic character of the area wherein the applicant or customer resides;
 - (J) age; and
- (2) solely upon the credit risk of the individual applicant or customer without regard to the:
 - (A) collective credit reputation of the area in which he or she lives; and

(B) credit history of any other individual residing in the household or the applicant or customer's spouse.
(3) Nothing in this rule or Title 8 of the Indiana Code shall alter, restrict or eliminate a utility's duty to comply with state and federal anti-discrimination laws.

(b) A utility may require a residential service applicant or customer to satisfactorily establish his or her financial responsibility (creditworthiness).

(1) If the applicant or customer has received electric service furnished to him or her at the same or at another address within the past twelve (12) months, the utility may require a deposit or other reasonable guarantor to secure payment of bills before providing utility service only if: ;

(A) The applicant or customer is unable to demonstrate that the applicant has made timely payment for such electric service in at least ten (10) of the past twelve (12) months; (B) The applicant or customer is unable to demonstrate that such electric service has not been disconnected within the past twelve (12) months; and

(C) The applicant or customer has failed to pay for past due electric service furnished to him or her at the same or at another address within the past four (4) years.

(2) If the applicant or customer has not received electric service furnished to him or her at the same or at another address within the past twelve (12) months, the applicant or customer shall be deemed creditworthy provided any of two (2) of the following criteria are met: (A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program;

(BB) being discharged from military service; or

(CC) being divorced.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) A bill for one (1) class of service (such as commercial) shall not be transferred to a bill for another class of service (such as residential), nor shall a bill for one (1) form of utility service (such as water) be transferred to a bill for another form of utility service (such as electric). Utility service shall not be denied for nonpayment of bills for merchandise or other nonutility or unregulated services.

(d) Utilities shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366, effective October 22, 1994. *(Indiana Utility Regulatory Commission; 170 IAC 4-1.2-3)*

(e) Utilities may request that a customer provide a Social Security Number for legitimate business purposes such as establishing positive identification and creditworthiness provided that, whenever such a request is made, the utility also informs the consumer of reasonable alternative methods of meeting the legitimate business purpose that would not require the disclosure of the consumer's Social Security Number.

170 IAC 4-1.2-4 Deposits

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2; IC 32-34-1

Sec. 4. (a) If the applicant or customer fails to establish that he or she is creditworthy under section 3 of this rule, the applicant or customer may be required to make a reasonable deposit. The deposit shall be based on, the estimated annual billings for regulated utility service at the address at which service is rendered to the applicant or customer and shall be paid in full before establishment of service, subject to the provisions of section 6 of this rule; provided, however, that a deposit shall be based upon estimated regulated electric service charges only. The deposit shall not exceed the following amount:

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Deleted: the applicant or customer is not deemed creditworthy due to any of the following circumstances

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Deleted: The applicant or customer does not meet or exceed the predetermined minimum credit score selected by the utility using a credit scoring system as provided in the utility's tariff.

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Deleted: not exceed one-sixth ($\frac{1}{6}$) of

- (1) one-sixth ($\frac{1}{6}$) of the estimated annual billings; or
(2) one-twelfth ($\frac{1}{12}$) of the estimated annual billings if the customer elects to enroll in the electric utility's budget bill program anytime from April through August, if the customer uses electricity to heat or October through February if the customer does not use electricity to heat.

If a deposit is greater than seventy dollars (\$70) but less than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than two (2) months, and service shall be connected upon receipt by the utility of the first payment. If a deposit is greater than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than three (3) months, and service shall be connected upon receipt by the utility of the first payment. For example, if the total deposit required by a utility under this section is one hundred eighty dollars (\$180), the applicant or customer could make three (3) payments of sixty dollars (\$60) over a three (3) month period, and service would be connected after the first sixty dollar (\$60) payment. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule in order to receive service. An initial deposit made by a customer shall be subject to reevaluation upon the request of either the utility or the customer, based upon actual charges for services rendered, at any time after service has been provided.

(b) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility within its discretion, of payment for all utility service rendered or requested to be rendered to the applicant or customer. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. The guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant or customer's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of ten (10) out of any twelve (12) consecutive months.

(c) If the utility requires a deposit or a written guarantee as a condition of providing service, the utility shall advise the applicant or customer of the reason upon which the utility bases its decision and provide the applicant or customer with an opportunity to rebut the facts and show other facts demonstrating creditworthiness. If the utility provides both electric and natural gas utility service, the utility shall also advise the applicant or customer of the amount of the deposit assigned to each type of service and of the applicant or customer's right to purchase services singularly.

(d) A utility may require an existing customer to make a reasonable deposit, or an additional deposit in cases where a deposit has been made and exhausted under this rule, under any of the following circumstances:

- (1) The customer has been mailed disconnect notices for two (2) consecutive months.
- (2) The customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period.
- (3) The service to the customer has been disconnected within the past forty-five (45) days for nonpayment.

In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make the deposit. When the service has been disconnected within the past four (4) years under section 5 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for service under this section may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the annualized estimated billings for regulated utility service to the customer at the address at which service is rendered. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule.

(e) Requirements for interest upon a deposit shall be as follows:

- (1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States Treasury Constant Maturity securities. The interest rate shall be rounded to the nearest one-half ($\frac{1}{2}$) of one percent (1%). A utility shall calculate the amount of interest earned on a customer

deposit by compounding interest daily and crediting interest monthly. In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer or otherwise lawfully disposed of as provided in subsection (f)(6).

(f) Requirements for refunds shall be as follows:

(1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.

(2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.

(3) Following a customer requested termination of service, the utility shall do the following:

(A) Apply the deposit, plus accrued interest, to the final bill.

(B) Refund any remaining deposit and accrued interest within fifteen (15) business days after payment of the final bill.

(4) A utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current mailing address of the customer.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting the deposit.

(5) Each customer shall be provided a written receipt from the utility at the time the customer's deposit is paid in full or any time the customer makes a partial payment. The utility shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant or customer to the utility (less any lawful deductions to be refunded), or any sum the utility is ordered to refund for electric service that has remained unclaimed for one (1) year after the utility has made a diligent effort to locate the customer who made the deposit or the heirs of the customer, shall be presumed abandoned and treated in accordance with IC 32-34-1 et seq.

(g) A deposit may be used by the utility to cover any unpaid balances owed the utility following disconnection of utility service, provided, however, that any surplus be returned to the customer as provided in this section.

(h) A deposit shall not be applied to satisfy an applicant or customer's bill, prior arrearage, or outstanding indebtedness that is greater than four (4) years old; however, a utility may pursue the unpaid balances via collections or other means provided by applicable law.

(i) This provision applies to deposits greater than seventy-five dollars (\$75). At the end of every year of service, if the deposit plus interest is not refunded to the customer, the utility shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and stating this credit clearly on the customer's next regular bill.

(j) A customer who fails to pay a bill by the time specified by the regulations of the utility and commission regarding the prompt payment of bills, and who further fails to pay the bill within a reasonable period after presentation of a disconnection of service notice for nonpayment, may be required to pay the bill and to reestablish credit by making a deposit under this rule.

(k) Establishment of credit by deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-4*)

170 IAC 4-1.2-5 Disconnection and prohibited disconnections

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-122

Affected: IC 8-1-2-4

Sec. 5. (a) Requirements for disconnection upon a customer's request are as follows:

- (1) The customer shall notify the utility at least three (3) business days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billing therefor until the date the customer has requested disconnection pursuant to the notice.
- (2) Upon request by a customer to a utility to disconnect service in fewer than three (3) business days, the utility shall disconnect the service within three (3) business days of the request. The customer shall not be liable for any service rendered to the address after the expiration of the three (3) days.
- (3) The customer shall not charge service or authorize the charging of service to any account that has been disconnected at the customer's request or otherwise. A customer shall be responsible for any services he or she charges or authorizes charged to the disconnected account in violation of the prohibition in this subdivision.

(b) Requirements for disconnection without a customer's request are as follows:

(1) A utility may disconnect service without request by the customer of the service and without prior notice only:

- (A) if a condition dangerous or hazardous to life, physical safety, or property exists;
- (B) upon order by any court, the commission or other duly authorized public authority;
- (C) if fraudulent or unauthorized use of service is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use;
- (D) if the utility's equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering; or
- (E) if the utility's equipment is used in a manner disruptive to the service of other customers.

(2) A utility may disconnect service to a customer based on a delinquent account with the same class of service (such as residential service) for that customer.

(c) Requirements for prohibited disconnections are as follows:

(1) Except as otherwise provided in subsections (a) and (b), a utility shall postpone the disconnection of electric service for thirty (30) days if, before the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official that states that disconnection would be a serious and immediate threat to the health and safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional medical statement to the utility. The utility shall be required to provide the customer a total of forty (40) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection may be made at the utility's discretion.

(2) A utility may not disconnect electric service to the customer for any of the following reasons:

- (A) Nonpayment of any nonutility or unregulated utility services.
- (B) Upon the customer's failure to pay for services to a previous occupant of the premises being served unless the utility has reasonable grounds to believe that the customer is attempting to defraud the utility.
- (C) On the basis of the delinquent character of an account of any other person, except if the customer is the guarantor of that other person's account for electricity service.
- (D) If the customer makes payment arrangements under section 6 of this rule.
- (E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, prior estimates where no actual reading was taken for over two (2) months, or any human or mechanical error of the utility, and the customer:
 - (i) makes a payment arrangement in accordance with the guidelines set forth in section 6 of this rule; and
 - (ii) agrees to pay all undisputed future bills for electric service as they become due, provided, however, that the utility may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item (i) and this item shall be put in writing by the utility and sent by mail to the customer.

(d) No utility may disconnect service unless the disconnecting is done between the hours of 8 a.m. and 3 p.m.,

prevailing local time. Disconnections under subsections (a) and (b) are not subject to this limitation. The utility may not disconnect service for nonpayment:

- (1) on any:
 - (A) Friday after noon;
 - (B) Saturday;
 - (C) Sunday; or
 - (D) other day the utility's offices are not open for business; or
- (2) after noon on any day immediately before a day the utility's office are not open for business.

(e) Requirements for notice required before involuntary disconnection are as follows:

(1) Except as otherwise provided in this section, service to any customer shall not be disconnected for a violation of any rule of the utility or for nonpayment of a bill, except after fourteen (14) days from:

(A) the postmark date of a written notice mailed to the customer at the address shown on the records of the utility, or

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(B) the date the notice is personally served upon the customer or a responsible member of the customer's household. No disconnect notice for nonpayment may be rendered before the date on which the account becomes delinquent.

(2) The disconnection notice shall be in language that is clear, concise, and easily understandable to a layperson and shall state, in separately numbered large print paragraphs, the following information:

- (A) The date of the proposed disconnection.
- (B) The specific reason and factual basis for the proposed disconnection.
- (C) The telephone number of the utility office at which the customer may call during regular business hours to question the proposed disconnection or seek information concerning the customer's rights.
- (D) The local and toll-free telephone numbers and office hours of the commission.
- (E) That the customer may refer to the pamphlet furnished under 170 IAC 4-1-18 for information as to the customer's rights.
- (F) Information as to the customer's rights, under this rule, including, but not limited to, the following:
 - (i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency under subsection (c).
 - (ii) That the customer may file a complaint with the utility.
 - (iii) That if the complaint is not resolved by the utility to the customer's satisfaction, the customer may file a complaint with the commission.
 - (iv) That the customer may make payment arrangements under section 6 of this rule.

(f) Utility employees conducting disconnections of service shall follow the following procedures:

- (1) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform the function shall make a reasonable attempt to identify himself or herself to the customer or any other responsible person then upon the premises and shall announce the purpose of his or her presence and shall make a record thereof to be maintained for at least thirty (30) days.
- (2) The employee shall have in his or her possession information sufficient to enable the employee to inform the customer or other responsible person the reason for the disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute and under review by the utility or the commission. Upon the presentation of such credible evidence, service shall not be disconnected.
- (3) The employee shall not be required to accept payment from the customer, user, or other responsible person in order to prevent the service from being disconnected. The utility shall notify the customers under 170 IAC 4-1-18 of its policy with regard to the acceptance or nonacceptance of payment from the employee and shall uniformly follow the policy without discrimination.
- (4) When the employee has disconnected the service, the employee shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) If a utility disconnects service in violation of this rule, the service shall immediately be restored at no charge to the customer. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-5*)

170 IAC 4-1.2-6 Payment arrangements and reconnection of service

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-121; IC 8-1-2-122

Affected: IC 8-1-2; IC 32-34-1-20

Sec. 6. (a) Except in cases where fraudulent or unauthorized use of utility service is detected and the utility has reasonable grounds to believe the customer is responsible for the use, when a residential customer cannot pay an undisputed bill or the undisputed portion of a disputed bill in full, the utility shall continue to serve the customer or reconnect the customer if the customer and the utility agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid (the "payment arrangement") shall be made in accordance with the following guidelines:

(1) The customer shows just cause for his or her inability to pay (financial hardship shall constitute just cause), and the customer pays a reasonable portion of the amount, not to exceed one-third ($\frac{1}{3}$) of all amounts due (unless the customer agrees to a greater portion) and the customer:

(A) agrees to pay:

- (i) the balance of all amounts due in equal monthly installments; and
- (ii) all undisputed future bills for utility service as they become due; and

(B) has not breached any similar agreement with the utility made under this section in the last twelve (12) months.

(2) In deciding on the reasonableness of a particular payment arrangement, the utility shall consider the following:

- (A) The customer's ability to pay.
- (B) The size of the unpaid balance.
- (C) The customer's payment history and length of service.
- (D) The amount of time the debt has been and the reasons why the debt is outstanding.

(3) The payment arrangement shall provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. The utility shall provide the customer with contact information for the available public assistance programs of which it is aware.

(4) The payment arrangement is subject to amendment upon the customer's request if there is a change in the customer's financial circumstances.

(5) The utility may add to the outstanding bill a late payment charge not to exceed the amount set under 170 IAC 4-1-13(c); however, only one (1) late payment charge may be assessed against the charges applicable to any given month.

(b) The terms of any payment arrangement made under this section shall be put in writing by the utility and sent by mail to the customer.

(c) If the customer does not meet any of the conditions in subsection (a), the utility may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(d) The utility shall reconnect service to a customer as soon as reasonably possible but at least within one (1) working day after the utility is requested to do so if the customer has satisfied the requirements of this rule.

(e) A utility may charge a reasonable reconnection charge not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of the reconnection fee under 170 IAC 4-1-18.

(f) Notwithstanding any other provision of this rule, from December 1 to March 15 of any year, any customer with a household income equal to or less than two hundred and fifty percent (250%) of the federal poverty level,

shall be reconnected as soon as possible upon:

- (1) paying twenty percent (20%) of the amount past due;
- (2) paying twenty percent (20%) of any deposit required by the utility; and
- (3) entering into a payment arrangement for the balance of past due amounts.

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The utility shall allow the customer a minimum of three (3) months or until March 15, whichever is later, to retire the past due balance and the remainder of the deposit. The customer shall also be informed that payment on the amounts past due and the deposit, if any, plus the current bills must be paid by the due date or the customer may face termination of service, subject to the winter moratorium described in section 7(b) of this rule. Eligible customers may have electric service reconnected only once per calendar year under this subsection.

(g) No later than September 15 of each year, every public utility shall conduct a survey of all customers whose electric service was used to provide or control the primary source of space heating in the dwelling and whose electric service was terminated for nonpayment of a bill or deposit from December 1 of the previous year to September 1 of the current year and where service at that premises has not been restored. Not later than October 15 of each year, the utility shall notify each of these customers that the electric service will be restored by the company for the coming heating season if the former customer contacts the utility and makes arrangements to pay the past due balance and any deposit required by the utility under the conditions set forth in this rule. A utility shall notify the former customer or an adult member of the household by personal visit, telephone contact, or mailing of a letter by first class mail to the last known address of that customer. The utility shall keep records that indicate the date, form, and results of the contact. The commission may request the utility to report the results of customer contacts made under this subsection. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-6*)

170 IAC 4-1.2-7 Home energy assistance; disconnection of service to recipients; notice period

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-121; IC 8-1-2-122

Affected: IC 12-14-11

Sec. 7. (a) Without a customer's request, a utility may not, during the period from December 1 through March 15, disconnect electric residential service to any customer who either is:

- (1) receiving; or
- (2) eligible for and has applied for;

assistance under IC 12-14-11.

(b) During the period from December 1 through March 15, a utility may not disconnect service to such customers if:

- (1) the customer's eligibility to receive benefits under IC 12-14-11 is being determined by the division of family and children or its designee after the submission of a complete application for benefits by the customer; or
- (2) the customer has furnished to the utility proof of his or her application to receive such benefits or the utility has been so notified in writing by the division of family and children or its authorized representative.

(c) This section does not prohibit a utility from terminating residential electric service upon the request of a customer or under any of the following circumstances:

- (1) If a condition dangerous or hazardous to life, physical safety, or property exists.
- (2) Upon order by any court, the commission, or other duly authorized public authority.
- (3) If fraudulent or unauthorized use of service is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use.
- (4) If the utility's equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering.
- (5) If the utility's equipment is used in a manner disruptive to the service of other customers.

(*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-7*)

170 IAC 4-1.2-8 Customer complaints to the utility

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 8. (a) An applicant or customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. The complaints may be made in person, by telephone, in writing, or by completing a written or

electronic form available from the utility. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed two (2) calendar days after the postmark date. In making a complaint or request for conference, the applicant or customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

(1) Immediately notify an applicant or customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance with section 5 of this rule.

(2) Promptly, thoroughly, and completely investigate the complaint in good faith, attempt to confer with the applicant or customer when requested, and notify the applicant or customer of the utility's proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on the applicant or customer's credit rating.

(3) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.

(4) Charges that are disputed by the applicant or customer shall not be treated as delinquent while an investigation is pending.

(5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate; however, the utility shall not assess any late payment charge that may have accrued while the investigation was pending.

(6) If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer of the disposition in writing if the complaint was made in writing. If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer in writing or orally, if the complaint was made orally. The notification shall include contact information for the commission, including the commission's mailing address, toll-free complaint number, and local telephone number. A utility shall direct its personnel engaged in contact with an applicant or customer to inform the applicant or customer, if he or she expresses dissatisfaction with the decision of the personnel, of the right to have the problem considered and acted upon by supervisory personnel of the utility. A utility shall further direct the supervisory personnel to notify the applicant or customer who expresses dissatisfaction with the decision of the supervisory personnel of the right to have the problem reviewed by the commission's consumer affairs division and shall furnish him or her the business address and telephone number of the commission. The notification shall advise the applicant or customer that if he or she is dissatisfied with the utility's disposition, the applicant or customer may, within twenty-one (21) days, file a complaint with the commission's consumer affairs division (under section 9 of this rule). The payment of a deposit as requested by the utility shall not foreclose or in any manner affect the applicant or customer's right to appeal under IC 8-1-2-34.5 or other applicable law.

(c) If at any time the applicant or customer files a complaint with the commission regarding a dispute with a utility, the procedures set forth in section 9 of this rule shall apply. Any disconnection of the applicant or customer's service shall be governed by section 5 of this rule.

(d) A utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. The records shall be maintained at the office or branch office of the utility or in the respective department office thereof where the complaints were received or any conferences were subsequently held. The written records are to be readily available upon request by the:

- (1) concerned applicant or customer;
- (2) applicant or customer's agent possessing written authorization; or
- (3) commission.

(e) A utility shall, at the request of the commission or the office of utility consumer counselor (as established by IC 8-1-1.1), submit a report covering the previous twelve (12) month period to the commission that shall state and classify the following:

- (1) The number of complaints made to the utility under this rule.

- (2) The general nature of the subject matter thereof.
- (3) How the complaint was received.
- (4) Whether a commission review was conducted thereon.

(Indiana Utility Regulatory Commission; 170 IAC 4-1.2-8)

170 IAC 4-1.2-9 Customer complaints to the commission

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-88

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the applicant or customer shall state, at a minimum, the following:

- (1) His or her name.
- (2) The service address.
- (3) His or her telephone number.
- (4) The name of the utility involved.
- (5) The general nature of his or her complaint.

(b) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of the complaint is pending. The applicant or customer shall continue to pay all undisputed charges. In those instances when the applicant or customer and the utility cannot agree as to what portion of a bill is undisputed, the applicant or customer shall pay on the disputed bill an amount equal to the applicant or customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the applicant or customer has received fewer than twelve (12) bills, the applicant or customer shall pay an amount equal to one-twelfth ($1/12$) of the estimated annual billing for service to be rendered to the applicant or customer.

(c) If the applicant or customer is dissatisfied with a utility's notice of the utility's proposed disposition of the complaint as provided in section 8 of this rule, the applicant or customer may, within twenty-one (21) days after the postmark date of the notice, file an informal complaint with the commission's consumer affairs division.

(d) Upon receiving an informal complaint, the following actions shall be taken:

- (1) The utility shall be notified that a complaint has been made.
- (2) The complaint shall be investigated.
- (3) The applicant or customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

(1) The applicant or customer or the utility may make a written request that a decision made under subsection (d) be reviewed informally by the consumer affairs director or designee. The written request shall be made within fourteen (14) days of the decision. The records of the commission relating to the reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review in a timely manner. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the applicant or customer and the utility. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at a place the consumer affairs director or designee considers appropriate.

(f) The applicant or customer may make a written request that the commission investigate the disposition of the

informal review. The written request shall be made within twenty (20) days of the consumer affairs division's notice of disposition. Before entering an order upon a commission investigation, the commission shall afford the applicant or customer and the utility notice and an opportunity to be heard.

(g) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least twenty (20) days have elapsed from the postmark date of the consumer affairs division's disposition or the commission's order upon investigation, if any.

(h) The time frames provided in this section may be extended at the discretion of the consumer affairs division. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-9*)

170 IAC 4-1.2-10 Estimated bills

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-4

Sec. 10. (a) Each estimated bill shall be clearly and conspicuously identified as such. Unless otherwise requested by a customer, estimated bills shall not be issued for more than three (3) consecutive months. After three (3) consecutive months of estimating the customer's bill, the utility shall secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.

(b) A utility or billing entity may not render a bill based on estimated usage if:

- (1) the billing would be the customer's first or final bill for service;
- (2) the customer has supplied meter readings to the utility; or
- (3) the customer has requested an actual meter read.

(c) When a utility or billing entity renders an estimated bill in accordance with this article, the utility or billing entity shall maintain accurate records of the reasons therefor and efforts made to secure an actual reading.

(d) When a utility underestimates a customer's usage, the customer shall be given the opportunity to make payment arrangements as provided in this rule.

(e) A utility may estimate a bill because a meter malfunctioned or failed. If the time when the meter malfunction or error began cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction or error. If the time when the malfunction or error began is greater than six (6) months before the discovery of the malfunction or error, the utility shall not recover any corrected billings, but shall refund to the consumer over-charges, if any.

Deleted: can be reasonably determined, the corrected billings shall go back to that time but shall not exceed twelve (12) months

(f) This section shall not apply to rural electric membership corporations. (*Indiana Utility Regulatory Commission; 170 IAC 4-1.2-10*)

SECTION 2. 170 IAC 5-1.2 IS ADDED TO READ AS FOLLOWS:

Rule 1.2. Gas Customer Service Rights and Responsibilities

170 IAC 5-1.2-1 Applicability and scope

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 1. (a) This rule applies to any gas public utility that is now, or may hereafter be, engaged in the business of rendering service to the public under the jurisdiction of the commission.

(b) This rule creates the minimum level of service that a utility is expected to meet when providing reasonable

quality gas utility services to the public and to establish the obligations of both the utility and the customer.

(c) No utility shall discriminate against or penalize a customer for exercising any right granted by this rule. If a utility's tariff on file with the commission contains provisions that conflict with this rule, this rule shall supersede any conflicting tariff provisions.

(d) Any utility subject to this rule that fails to meet the standards herein shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and hearing, the commission may order lawful enforcement mechanisms against a public utility that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any public utility fails to comply.

(e) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

- (1) Altering or amending this rule in whole or in part.
- (2) Requiring any other or additional service, equipment, facility, or standard.
- (3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.
- (4) Requiring a utility to comply with any other service standards.
- (5) At its sole discretion, granting, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

The adoption of this rule shall not in any way relieve any utility from any of its duties under the law of this state or rules and orders of the commission.

(f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, the provision shall be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions hereof. (*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-1*)

170 IAC 5-1.2-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-1

Sec. 2. The following definitions apply throughout this rule:

- (1) "Applicant" means any person or designated agent who seeks to become a customer for residential gas utility service.
- (2) "Commission" means the Indiana utility regulatory commission.
- (3) "Customer" means any person who requests and obtains residential utility service and is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
- (4) "Disconnection" means the termination or discontinuance of utility service.
- (5) "Late payment charge" means the one-time penalty assessed by a utility on a customer's account when the account becomes delinquent.
- (6) "Residential service" means gas utility service for household purposes that is billed under a residential rate.
- (7) "Utility" or "public utility" means any public utility (as defined in IC 8-1-2-1) that furnishes gas service to the public under the jurisdiction of the commission.

(*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-2*)

170 IAC 5-1.2-3 Creditworthiness guidelines

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 3. (a) A utility shall determine the creditworthiness of an applicant or customer in an equitable and nondiscriminatory manner:

(1) without regard to:

- (A) race;
- (B) color;
- (C) creed;
- (D) religion;
- (E) national origin;
- (F) sex;
- (G) marital status;
- (H) receipt of public assistance; or
- (I) the economic character of the area wherein the applicant or customer resides;
- (J) age; and

(2) solely upon the credit risk of the individual applicant or customer without regard to the:

- (A) collective credit reputation of the area in which he or she lives; and
- (B) credit history of any other individual residing in the household or the applicant or customer's spouse.

(3) Nothing in this rule or Title 8 of the Indiana Code shall alter, restrict or eliminate a utility's duty to comply with state and federal anti-discrimination laws.

Deleted:

(b) A utility may require a residential service applicant or customer to satisfactorily establish his or her financial responsibility (creditworthiness).

(1) If the applicant or customer has received electric service furnished to him or her at the same or at another address within the past twelve (12) months, the utility may require a deposit or other reasonable guarantor to secure payment of bills before providing utility service only if:

(A) The applicant or customer is unable to demonstrate that the applicant has made timely payment for such electric service in at least ten (10) of the past twelve (12) months;

(B) The applicant or customer is unable to demonstrate that such electric service has not been disconnected within the past twelve (12) months; and

(C) The applicant or customer has failed to pay for past due gas service furnished to him or her at the same or at another address within the past four (4) years.

(2) If the applicant or customer has not received electric service furnished to him or her at the same or at another address within the past twelve (12) months, the applicant or customer shall be deemed creditworthy provided any of two (2) of the following criteria are met: (A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program;

(BB) being discharged from military service; or

(CC) being divorced.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

Deleted: the applicant or customer is not deemed creditworthy due to any of the following circumstances

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Deleted: The applicant or customer does not meet or exceed the predetermined minimum credit score selected by the utility using a credit scoring system as provided in the utility's tariff.
(2)

(c) A bill for one (1) class of service (such as commercial) shall not be transferred to a bill for another class of service (such as residential), nor shall a bill for one (1) form of utility service (such as gas) be transferred to a bill for another form of utility service (such as electric). Utility service shall not be denied for nonpayment of bills for merchandise or other nonutility or unregulated services.

(d) Utilities shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366, effective October 22, 1994. (Indiana Utility Regulatory Commission; 170 IAC 5-1.2-3)

(e) Utilities may request that a customer provide a Social Security Number for legitimate business purposes such as establishing positive identification and creditworthiness provided that, whenever such a request is made, the utility also informs the consumer of reasonable alternative methods of meeting the legitimate business purpose that would not require the disclosure of the consumer's Social Security Number.

170 IAC 5-1.2-4 Deposits

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2; IC 32-34-1

Sec. 4. (a) If the applicant or customer fails to establish that he or she is creditworthy under section 3 of this rule, the applicant or customer may be required to make a reasonable deposit. The deposit shall be based on the estimated annual billings for regulated utility service at the address at which service is rendered to the applicant or customer and shall be paid in full before establishment of service, subject to the provisions of section 6 of this rule; provided, however, that a deposit shall be based upon estimated regulated gas service charges only. The deposit shall not exceed the following amount:

(3) one-sixth ($\frac{1}{6}$) of the estimated annual billings; or

(4) one-twelfth ($\frac{1}{12}$) of the estimated annual billings if the customer elects to enroll in the gas utility's budget bill program anytime from April through August.

If a deposit is greater than seventy dollars (\$70) but less than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than two (2) months, and service shall be connected upon receipt by the utility of the first payment. If a deposit is greater than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than three (3) months, and service shall be connected upon receipt by the utility of the first payment. For example, if the total deposit required by a utility under this section is one hundred eighty dollars (\$180), the applicant or customer could make three (3) payments of sixty dollars (\$60) over a three (3) month period, and service would be connected after the first sixty dollar (\$60) payment. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule in order to receive service. An initial deposit made by a customer shall be subject to reevaluation upon the request of either the utility or the customer, based upon actual charges for services rendered, at any time after service has been provided.

(b) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility within its discretion, of payment for all utility service rendered or requested to be rendered to the applicant or customer. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. The guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant or customer's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of ten (10) out of any twelve (12) consecutive months.

(c) If the utility requires a deposit or a written guarantee as a condition of providing service, the utility shall advise the applicant or customer of the reason upon which the utility bases its decision and provide the applicant or customer with an opportunity to rebut the facts and show other facts demonstrating creditworthiness. If the utility provides both electric and natural gas utility service, the utility shall also advise the applicant or customer of the amount of the deposit assigned to each type of service and of the applicant or customer's right to purchase services singularly.

(d) A utility may require an existing customer to make a reasonable deposit, or an additional deposit in cases where a deposit has been made and exhausted under this rule, under any of the following circumstances:

(1) The customer has been mailed disconnect notices for two (2) consecutive months.

(2) The customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12)

Deleted: not exceed one-sixth ($\frac{1}{6}$) of

month period.

(3) The service to the customer has been disconnected within the past forty-five (45) days for nonpayment. In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make the deposit. When the service has been disconnected within the past four (4) years under section 5 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for service under this section may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the annualized estimated regulated utility charges to the customer at the address at which service is rendered.

(c) Requirements for interest upon a deposit shall be as follows:

(1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States Treasury Constant Maturity securities. The interest rate shall be rounded to the nearest one-half ($\frac{1}{2}$) of one percent (1%). A utility shall calculate the amount of interest earned on a customer deposit by compounding interest daily and crediting interest monthly. In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed of as provided in subsection (f)(6).

(f) Requirements for refunds shall be as follows:

(1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.

(2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.

(3) Following a customer requested termination of service, the utility shall do the following:

(A) Apply the deposit, plus accrued interest, to the final bill.

(B) Refund any remaining deposit and accrued interest within fifteen (15) business days after payment of the final bill.

(4) A utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current mailing address of the customer.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting the deposit.

(5) Each customer shall be provided a written receipt from the utility at the time the customer's deposit is paid in full or any time the customer makes a partial payment. The utility shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant or customer to the utility (less any lawful deductions to be refunded), or any sum the utility is ordered to refund for gas service that has remained unclaimed for one (1) year after the utility has made a diligent effort to locate the customer who made the deposit or the heirs of the customer, shall be presumed abandoned and treated in accordance with IC 32-34-1 et seq.

(g) A deposit may be used by the utility to cover any unpaid balances owed the utility following disconnection of utility service, provided, however, that any surplus be returned to the customer as provided in this section.

(h) A deposit shall not be applied to satisfy an applicant or customer's bill, prior arrearage, or outstanding indebtedness that is greater than four (4) years old; however, a utility may pursue the unpaid balances via collections or other means provided by applicable law.

(i) This provision applies to deposits greater than seventy-five dollars (\$75). At the end of every year of service,

if the deposit plus interest is not refunded to the customer, the utility shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and stating this credit clearly on the customer's next regular bill.

(j) A customer who fails to pay a bill by the time specified by the regulations of the utility and commission regarding the prompt payment of bills, and who further fails to pay the bill within a reasonable period after presentation of a disconnection of service notice for nonpayment, may be required to pay the bill and to reestablish credit by making a deposit under this rule.

(k) Establishment of credit by deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills. (*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-4*)

170 IAC 5-1.2-5 Disconnection and prohibited disconnections

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-122

Affected: IC 8-1-2-4

Sec. 5. (a) Requirements for disconnection upon a customer's request are as follows:

- (1) The customer shall notify the utility at least three (3) business days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billing therefor until the date the customer has requested disconnection pursuant to the notice.
- (2) Upon request by a customer to a utility to disconnect service in fewer than three (3) business days, the utility shall disconnect the service within three (3) business days of the request. The customer shall not be liable for any service rendered to the address after the expiration of the three (3) days.
- (3) The customer shall not charge service or authorize the charging of service to any account that has been disconnected at the customer's request or otherwise. A customer shall be responsible for any services he or she charges or authorizes charged to the disconnected account in violation of the prohibition in this subdivision.

(b) Requirements for disconnection without a customer's request are as follows:

- (1) A utility may disconnect service without request by the customer of the service and without prior notice only:
 - (A) if a condition dangerous or hazardous to life, physical safety, or property exists;
 - (B) upon order by any court, the commission or other duly authorized public authority;
 - (C) if fraudulent or unauthorized use of service is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use;
 - (D) if the utility's equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering; or
 - (E) if the utility's equipment is used in a manner disruptive to the service of other customers.
- (2) A utility may disconnect service to a customer based on a delinquent account with the same class of service (such as residential service) for that customer.

(c) Requirements for prohibited disconnections are as follows:

- (1) Except as otherwise provided in subsections (a) and (b), a utility shall postpone the disconnection of gas service for thirty (30) days if, before the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official that states that disconnection would be a serious and immediate threat to the health and safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional medical statement to the utility. The utility shall be required to provide the customer a total of forty (40) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection may be made at the utility's discretion.
- (2) A utility may not disconnect gas service to the customer for any of the following reasons:
 - (A) Nonpayment of any nonutility or unregulated utility services.
 - (B) Upon the customer's failure to pay for services to a previous occupant of the premises being served unless

the utility has reasonable grounds to believe that the customer is attempting to defraud the utility.

(C) On the basis of the delinquent character of an account of any other person, except if the customer is the guarantor of that other person's account for gas service.

(D) If the customer makes payment arrangements under section 6 of this rule.

(E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, prior estimates where no actual reading was taken for over two (2) months, or any human or mechanical error of the utility, and the customer:

- (i) makes a payment arrangement in accordance with the guidelines set forth in section 6 of this rule; and
- (ii) agrees to pay all undisputed future bills for gas service as they become due, provided, however, that the utility may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item (i) and this item shall be put in writing by the utility and sent by mail to the customer.

(d) No utility may disconnect service unless the disconnecting is done between the hours of 8 a.m. and 3 p.m., prevailing local time. Disconnections under subsections (a) and (b) are not subject to this limitation. The utility may not disconnect service for nonpayment:

(1) on any:

(A) Friday after noon;

(B) Saturday;

(C) Sunday; or

(D) other day the utility's offices are not open for business; or

(2) after noon on any day immediately before a day the utility's office are not open for business.

(e) Requirements for notice required before involuntary disconnection are as follows:

(1) Except as otherwise provided in this section, service to any customer shall not be disconnected for a violation of any rule of the utility or for nonpayment of a bill, except after fourteen (14) days from:

(A) the postmark date of a written notice sent to the customer at the address shown on the records of the utility,
or

(B) the date the notice is personally served upon the customer or a responsible member of the customer's household. No disconnect notice for nonpayment may be rendered before the date on which the account becomes delinquent.

(2) The disconnection notice shall be in language that is clear, concise, and easily understandable to a layperson and shall state, in separately numbered large print paragraphs, the following information:

(A) The date of the proposed disconnection.

(B) The specific reason and factual basis for the proposed disconnection.

(C) The telephone number of the utility office at which the customer may call during regular business hours to question the proposed disconnection or seek information concerning the customer's rights.

(D) The local and toll-free telephone numbers and office hours of the commission.

(E) That the customer may refer to the pamphlet furnished under 170 IAC 5-1-18 for information as to the customer's rights.

(F) Information as to the customer's rights, under this rule, including, but not limited to, the following:

(i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency under subsection (c).

(ii) That the customer may file a complaint with the utility.

(iii) That if the complaint is not resolved by the utility to the customer's satisfaction, the customer may file a complaint with the commission.

(iv) That the customer may make payment arrangements under section 6 of this rule.

(f) Utility employees conducting disconnections of service shall follow the following procedures:

(1) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform the function shall make a reasonable attempt to identify himself or herself to the customer or any other responsible person then upon the premises and shall announce the purpose of his or her presence and shall make a record thereof to be maintained for at least thirty (30) days.

(2) The employee shall have in his or her possession information sufficient to enable the employee to inform the

Deleted:

customer or other responsible person the reason for the disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute and under review by the utility or the commission. Upon the presentation of such credible evidence, service shall not be disconnected.

(3) The employee shall not be required to accept payment from the customer, user, or other responsible person in order to prevent the service from being disconnected. The utility shall notify the customers under 170 IAC 5-1-18 of its policy with regard to the acceptance or nonacceptance of payment from the employee and shall uniformly follow the policy without discrimination.

(4) When the employee has disconnected the service, the employee shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) If a utility disconnects service in violation of this rule, the service shall immediately be restored at no charge to the customer. (*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-5*)

170 IAC 5-1.2-6 Payment arrangements and reconnection of service

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-121; IC 8-1-2-122

Affected: IC 8-1-2; IC 32-34-1-20

Sec. 6. (a) Except in cases where fraudulent or unauthorized use of utility service is detected and the utility has reasonable grounds to believe the customer is responsible for the use, when a residential customer cannot pay an undisputed bill or the undisputed portion of a disputed bill in full, the utility shall continue to serve the customer or reconnect the customer if the customer and the utility agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid (the "payment arrangement") shall be made in accordance with the following guidelines:

(1) The customer shows just cause for his or her inability to pay (financial hardship shall constitute just cause), and the customer pays a reasonable portion of the amount, not to exceed one-third ($\frac{1}{3}$) of all amounts due (unless the customer agrees to a greater portion) and the customer:

(A) agrees to pay:

(i) the balance of all amounts due in equal monthly installments; and

(ii) all undisputed future bills for utility service as they become due; and

(B) has not breached any similar agreement with the utility made under this section in the last twelve (12) months.

(2) In deciding on the reasonableness of a particular payment arrangement, the utility shall consider the following:

(A) The customer's ability to pay.

(B) The size of the unpaid balance.

(C) The customer's payment history and length of service.

(D) The amount of time the debt has been and the reasons why the debt is outstanding.

(3) The payment arrangement shall provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. The utility shall provide the customer with contact information for the available public assistance programs of which it is aware.

(4) The payment arrangement is subject to amendment upon the customer's request if there is a change in the customer's financial circumstances.

(5) The utility may add to the outstanding bill a late payment charge not to exceed the amount set under 170 IAC 5-1-13(B); however, only one (1) late payment charge may be assessed against the charges applicable to any given month.

(b) The terms of any payment arrangement made under this section shall be put in writing by the utility and sent by mail to the customer.

(c) If the customer does not meet any of the conditions in subsection (a), the utility may, but is not obligated to,

enter into subsequent payment arrangements with the customer.

(d) The utility shall reconnect service to a customer as soon as reasonably possible but at least within one (1) working day after the utility is requested to do so if the customer has satisfied the requirements of this rule.

(e) A utility may charge a reasonable reconnection charge not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of the reconnection fee under 170 IAC 5-1-18.

(f) Notwithstanding any other provision of this rule, from December 1 to March 15 of any year, any customer with a household income equal to or less than two hundred and fifty percent (250%) of the federal poverty level shall be reconnected as soon as possible upon:

- (1) paying twenty percent (20%) of the amount past due;
- (2) paying twenty percent (20%) of any deposit required by the utility; and
- (3) entering into a payment arrangement for the balance of past due amounts.

The utility shall allow the customer a minimum of three (3) months or until March 15, whichever is later, to retire the past due balance and the remainder of the deposit. The customer shall also be informed that payment on the amounts past due and the deposit, if any, plus the current bills must be paid by the due date or the customer may face termination of service, subject to the winter moratorium described in section 7(b) of this rule. Eligible customers may have electric service reconnected only once per calendar year under this subsection.

Deleted: of any gas utility

(g) No later than September 15 of each year, every public utility shall conduct a survey of all customers whose gas service was used to provide or control the primary source of space heating in the dwelling and whose gas service was terminated for nonpayment of a bill or deposit from December 1 of the previous year to September 1 of the current year and where service at that premises has not been restored. Not later than October 15 of each year, the utility shall notify each of these customers that the gas service will be restored by the company for the coming heating season if the former customer contacts the utility and makes arrangements to pay the past due balance and any deposit required by the utility under the conditions set forth in this rule. A utility shall notify the former customer or an adult member of the household by personal visit, telephone contact, or mailing of a letter by first class mail to the last known address of that customer. The utility shall keep records that indicate the date, form, and results of the contact. The commission may request the utility to report the results of customer contacts made under this subsection. (*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-6*)

170 IAC 5-1.2-7 Home energy assistance; disconnection of service to recipients; notice period

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-121; IC 8-1-2-122

Affected: IC 12-14-11

Sec. 7. (a) Without a customer's request, a utility may not, during the period from December 1 through March 15, disconnect gas residential service to any customer who either is:

- (1) receiving; or
- (2) eligible for and has applied for;

assistance under IC 12-14-11.

(b) During the period from December 1 through March 15, a utility may not disconnect service to such customers if:

- (1) the customer's eligibility to receive benefits under IC 12-14-11 is being determined by the division of family and children or its designee after the submission of a complete application for benefits by the customer; or
- (2) the customer has furnished to the utility proof of his or her application to receive such benefits or the utility has been so notified in writing by the division of family and children or its authorized representative.

(c) This section does not prohibit a utility from terminating residential gas service upon the request of a customer or under any of the following circumstances:

- (1) If a condition dangerous or hazardous to life, physical safety, or property exists.
- (2) Upon order by any court, the commission or other duly authorized public authority.

(3) If fraudulent or unauthorized use of service is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use.

(4) If the utility's equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering.

(5) If the utility's equipment is used in a manner disruptive to the service of other customers.

(Indiana Utility Regulatory Commission; 170 IAC 5-1.2-7)

170 IAC 5-1.2-8 Customer complaints to the utility

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 8. (a) An applicant or customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the utility. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed two (2) calendar days after the postmark date. In making a complaint or request for conference, the applicant or customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

(1) Immediately notify a customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance with section 5 of this rule.

(2) Promptly, thoroughly, and completely investigate the complaint in good faith, attempt to confer with the applicant or customer when requested, and notify the applicant or customer of the utility's proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on the applicant or customer's credit rating.

(3) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.

(4) Charges that are disputed by the customer shall not be treated as delinquent while an investigation is pending.

(5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate; however, the utility shall not assess any late payment charge that may have accrued while the investigation was pending.

(6) If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer of the disposition in writing if the complaint was made in writing. If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer in writing or orally, if the complaint was made orally. The notification shall include contact information for the commission, including the commission's mailing address, toll-free complaint number, and local telephone number. A utility shall direct its personnel engaged in contact with an applicant or customer to inform the applicant or customer, if he or she expresses dissatisfaction with the decision of the personnel, of the right to have the problem considered and acted upon by supervisory personnel of the utility. A utility shall further direct the supervisory personnel to notify the applicant or customer who expresses dissatisfaction with the decision of the supervisory personnel of the right to have the problem reviewed by the commission's consumer affairs division and shall furnish him or her the business address and telephone number of the commission. The notification shall advise the applicant or customer that if he or she is dissatisfied with the utility's disposition, the applicant or customer may, within twenty-one (21) days, file a complaint with the commission's consumer affairs division (under section 9 of this rule). The payment of a deposit as requested by the utility shall not foreclose or in any manner affect the applicant or customer's right to appeal under IC 8-1-2-34.5 or other applicable law.

(c) If at any time the applicant or customer files a complaint with the commission regarding a dispute with a utility, the procedures set forth in section 9 of this rule shall apply. Any disconnection of the applicant or

customer's service shall be governed by section 5 of this rule.

(d) A utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. The records shall be maintained at the office or branch office of the utility or in the respective department office thereof where the complaints were received or any conferences were subsequently held. The written records are to be readily available upon request by the:

- (1) concerned applicant or customer;
- (2) applicant or customer's agent possessing written authorization; or
- (3) commission.

(e) A utility shall, at the request of the commission or the office of utility consumer counselor (as established by IC 8-1-1.1), submit a report covering the previous twelve (12) month period to the commission that shall state and classify the following:

- (1) The number of complaints made to the utility under this rule.
- (2) The general nature of the subject matter thereof.
- (3) How the complaint was received.
- (4) Whether a commission review was conducted thereon.

(Indiana Utility Regulatory Commission; 170 IAC 5-1.2-8)

170 IAC 5-1.2-9 Customer complaints to the commission

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-88

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the applicant or customer shall state, at a minimum, the following:

- (1) His or her name.
- (2) The service address.
- (3) His or her telephone number.
- (4) The name of the utility involved.
- (5) The general nature of his or her complaint.

(b) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of the complaint is pending. The applicant or customer shall continue to pay all undisputed charges. In those instances when the applicant or customer and the utility cannot agree as to what portion of a bill is undisputed, the applicant or customer shall pay on the disputed bill an amount equal to the applicant or customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the applicant or customer has received fewer than twelve (12) bills, the applicant or customer shall pay an amount equal to one-twelfth ($1/12$) of the estimated annual billing for service to be rendered to the applicant or customer.

(c) If the applicant or customer is dissatisfied with a utility's notice of the utility's proposed disposition of the complaint as provided in section 8 of this rule, the applicant or customer may, within twenty-one (21) days after the postmark date of the notice, file an informal complaint with the commission's consumer affairs division.

(d) Upon receiving an informal complaint, the following actions shall be taken:

- (1) The utility shall be notified that a complaint has been made.
- (2) The complaint shall be investigated.
- (3) The applicant or customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

(1) The applicant or customer or the utility may make a written request that a decision made under subsection (d) be reviewed informally by the consumer affairs director or designee. The written request shall be made within fourteen (14) days of the decision. The records of the commission relating to the reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review in a timely manner. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the applicant or customer and the utility. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at a place the consumer affairs director or designee considers appropriate.

(f) The applicant or customer may make a written request that the commission investigate the disposition of the informal review. The written request shall be made within twenty (20) days of the consumer affairs division's notice of disposition. Before entering an order upon a commission investigation, the commission shall afford the applicant or customer and the utility notice and an opportunity to be heard.

(g) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least twenty (20) days have elapsed from the postmark date of the consumer affairs division's disposition or the commission's order upon investigation, if any.

(h) The time frames provided in this section may be extended at the discretion of the consumer affairs division. (*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-9*)

170 IAC 5-1.2-10 Estimated bills

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-4

Sec. 10. (a) Each estimated bill shall be clearly and conspicuously identified as such. Unless otherwise requested by a customer, estimated bills shall not be issued for more than three (3) consecutive months. After three (3) consecutive months of estimating the customer's bill, the utility shall secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.

(b) A utility or billing entity may not render a bill based on estimated usage if:

- (1) the billing would be the customer's first or final bill for service;
- (2) the customer has supplied meter readings to the utility; or
- (3) the customer has requested an actual meter read.

(c) When a utility or billing entity renders an estimated bill in accordance with this article, the utility or billing entity shall maintain accurate records of the reasons therefor and efforts made to secure an actual reading.

(d) When a utility underestimates a customer's usage, the customer shall be given the opportunity to make payment arrangements as provided in this rule.

(e) A utility may estimate a bill because a meter malfunctioned or failed. If the time when the meter malfunction or error began cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction or error. If the time when the malfunction or error began is greater than six (6) months before the discovery of the malfunction or error, the utility shall not recover any corrected billings, but shall refund to the consumer over-charges, if any.

(*Indiana Utility Regulatory Commission; 170 IAC 5-1.2-10*)

Deleted: can be reasonably determined, the corrected billings shall go back to that time but shall not exceed twelve (12) months

SECTION 3. 170 IAC 6-1.2 IS ADDED TO READ AS FOLLOWS:

Rule 1.2. Water Customer Service Rights and Responsibilities

170 IAC 6-1.2-1 Applicability and scope

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 1. (a) This rule applies to any water public utility that is now, or may hereafter be, engaged in the business of rendering service to the public under the jurisdiction of the commission.

(b) This rule creates the minimum level of service that a utility is expected to meet when providing reasonable quality water utility services to the public and to establish the obligations of both the utility and the customer.

(c) No utility shall discriminate against or penalize a customer for exercising any right granted by this rule. If a utility's tariff on file with the commission contains provisions that conflict with this rule, this rule shall supersede any conflicting tariff provisions.

(d) Any utility subject to this rule that fails to meet the standards herein shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and hearing, the commission may order lawful enforcement mechanisms against a public utility that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any public utility fails to comply.

(e) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

- (1) Altering or amending this rule in whole or in part.
- (2) Requiring any other or additional service, equipment, facility, or standard.
- (3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.
- (4) Requiring a utility to comply with any other service standards.
- (5) At its sole discretion, granting, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

The adoption of this rule shall not in any way relieve any utility from any of its duties under the law of this state or rules and orders of the commission.

(f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, the provision shall be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions hereof. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.2-1*)

170 IAC 6-1.2-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-1

Sec. 2. The following definitions apply throughout this rule:

- (1) "Applicant" means any person or designated agent who seeks to become a customer for residential water utility service.
- (2) "Commission" means the Indiana utility regulatory commission.
- (3) "Customer" means any person who requests and obtains residential utility service and is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
- (4) "Disconnection" means the termination or discontinuance of utility service.
- (5) "Late payment charge" means the one-time penalty assessed by a utility on a customer's account when the

account becomes delinquent.

(6) "Residential service" means water utility service for household purposes that is billed under a residential rate.

(7) "Utility" or "public utility" means any public utility (as defined in IC 8-1-2-1) that furnishes water service to the public under the jurisdiction of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 6-1.2-2)

170 IAC 6-1.2-3 Creditworthiness guidelines

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 3. (a) A utility shall determine the creditworthiness of an applicant or customer in an equitable and nondiscriminatory manner:

(1) without regard to:

- (A) race;
- (B) color;
- (C) creed;
- (D) religion;
- (E) national origin;
- (F) sex;
- (G) marital status;
- (H) receipt of public assistance; or
- (I) the economic character of the area wherein the applicant or customer resides;
- (J) age; and

(2) solely upon the credit risk of the individual applicant or customer without regard to the:

- (A) collective credit reputation of the area in which he or she lives; and
- (B) credit history of any other individual residing in the household or the applicant or customer's spouse.

(3) Nothing in this rule or Title 8 of the Indiana Code shall alter, restrict or eliminate a utility's duty to comply with state and federal anti-discrimination laws.

(b) A utility may require a residential service applicant or customer to satisfactorily establish his or her financial responsibility (creditworthiness).

(1) If the applicant or customer has received water service furnished to him or her at the same or at another address within the past twelve (12) months, the utility may require a deposit or other reasonable guarantor to secure payment of bills before providing utility service only if:

(A) The applicant or customer is unable to demonstrate that the applicant has made timely payment for such water service in at least ten (10) of the past twelve (12) months;

(B) The applicant or customer is unable to demonstrate that such water service has not been disconnected within the past twelve (12) months; and

(C) The applicant or customer has failed to pay for past due water service furnished to him or her at the same or at another address within the past four (4) years.

(2) If the applicant or customer has not received water service furnished to him or her at the same or at another address within the past twelve (12) months, the applicant or customer shall be deemed creditworthy provided any of two (2) of the following criteria are met: (A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program;

(BB) being discharged from military service; or

(CC) being divorced.

(B) The applicant either:

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(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) A bill for one (1) class of service (such as commercial) shall not be transferred to a bill for another class of service (such as residential), nor shall a bill for one (1) form of utility service (such as water) be transferred to a bill for another form of utility service (such as gas). Utility service shall not be denied for nonpayment of bills for merchandise or other nonutility or unregulated services.

(d) Utilities shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366, effective October 22, 1994. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.2-3*)

(e) Utilities may request that a customer provide a Social Security Number for legitimate business purposes such as establishing positive identification and creditworthiness provided that, whenever such a request is made, the utility also informs the consumer of reasonable alternative methods of meeting the legitimate business purpose that would not require the disclosure of the consumer's Social Security Number.

170 IAC 6-1.2-4 Deposits

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2; IC 32-34-1

Sec. 4. (a) If the applicant or customer fails to establish that he or she is creditworthy under section 3 of this rule, the applicant or customer may be required to make a reasonable deposit. The deposit shall not exceed one-sixth ($\frac{1}{6}$) of the estimated annual billings for regulated utility service at the address at which service is rendered to the applicant or customer and shall be paid in full before establishment of service, subject to the provisions of section 6 of this rule; provided, however, that a deposit shall be based upon estimated regulated water service charges only. If a deposit is greater than seventy dollars (\$70) but less than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than two (2) months, and service shall be connected upon receipt by the utility of the first payment. If a deposit is greater than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than three (3) months, and service shall be connected upon receipt by the utility of the first payment. For example, if the total deposit required by a utility under this section is one hundred eighty dollars (\$180), the applicant or customer could make three (3) payments of sixty dollars (\$60) over a three (3) month period, and service would be connected after the first sixty dollar (\$60) payment. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule in order to receive service. An initial deposit made by a customer shall be subject to reevaluation upon the request of either the utility or the customer, based upon actual charges for services rendered, at any time after service has been provided.

(b) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility within its discretion, of payment for all utility service rendered or requested to be rendered to the applicant or customer. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. The guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant or customer's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of ten (10) out of any twelve (12) consecutive months.

(c) If the utility requires a deposit or a written guarantee as a condition of providing service, the utility shall

advise the applicant or customer of the reason upon which the utility bases its decision and provide the applicant or customer with an opportunity to rebut the facts and show other facts demonstrating creditworthiness.

(d) A utility may require an existing customer to make a reasonable deposit, or an additional deposit in cases where a deposit has been made and exhausted under this rule, under any of the following circumstances:

(1) The customer has been mailed disconnect notices for two (2) consecutive months.

(2) The customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period.

(3) The service to the customer has been disconnected within the past forty-five (45) days for nonpayment.

In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make the deposit. When the service has been disconnected within the past four (4) years under section 5 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for service under this section may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the annualized estimated billings for regulated utility service to the customer at the address at which service is rendered.

(e) Requirements for interest upon a deposit shall be as follows:

(1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States Treasury Constant Maturity securities. The interest rate shall be rounded to the nearest one-half ($\frac{1}{2}$) of one percent (1%). A utility shall calculate the amount of interest earned on a customer deposit by compounding interest daily and crediting interest monthly. In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer or otherwise lawfully disposed of as provided in subsection (f)(6).

(f) Requirements for refunds shall be as follows:

(1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.

(2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.

(3) Following a customer requested termination of service, the utility shall do the following:

(A) Apply the deposit, plus accrued interest, to the final bill.

(B) Refund any remaining deposit and accrued interest within fifteen (15) business days after payment of the final bill.

(4) A utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current mailing address of the customer.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting the deposit.

(5) Each customer shall be provided a written receipt from the utility at the time the customer's deposit is paid in full or any time the customer makes a partial payment. The utility shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant or customer to the utility (less any lawful deductions to be refunded), or any sum the utility is ordered to refund for water service that has remained unclaimed for one (1) year after the utility has made a diligent effort to locate the customer who made the deposit or the heirs of the customer, shall be presumed abandoned and treated in accordance with IC 32-34-1 et seq.

(g) A deposit may be used by the utility to cover any unpaid balances owed the utility following disconnection of

utility service, provided, however, that any surplus be returned to the customer as provided in this section.

(h) A deposit shall not be applied to satisfy an applicant or customer's bill, prior arrearage, or outstanding indebtedness that is greater than four (4) years old; however, a utility may pursue the unpaid balances via collections or other means provided by applicable law.

(i) This provision applies to deposits greater than seventy-five dollars (\$75). At the end of every year of service, if the deposit plus interest is not refunded to the customer, the utility shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and stating this credit clearly on the customer's next regular bill.

(j) A customer who fails to pay a bill by the time specified by the regulations of the utility and commission regarding the prompt payment of bills, and who further fails to pay the bill within a reasonable period after presentation of a disconnection of service notice for nonpayment, may be required to pay the bill and to reestablish credit by making a deposit under this rule.

(k) Establishment of credit by deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.2-4*)

170 IAC 6-1.2-5 Disconnection and prohibited disconnections

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-122

Affected: IC 8-1-2-4

Sec. 5. (a) Requirements for disconnection upon a customer's request are as follows:

(1) The customer shall notify the utility at least three (3) business days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billing therefor until the date the customer has requested disconnection pursuant to the notice.

(2) Upon request by a customer to a utility to disconnect service in fewer than three (3) business days, the utility shall disconnect the service within three (3) business days of the request. The customer shall not be liable for any service rendered to the address after the expiration of the three (3) days.

(3) The customer shall not charge service or authorize the charging of service to any account that has been disconnected at the customer's request or otherwise. A customer shall be responsible for any services he or she charges or authorizes charged to the disconnected account in violation of the prohibition in this subdivision.

(b) Requirements for disconnection without a customer's request are as follows:

(1) A utility may disconnect service without request by the customer of the service and without prior notice only:

(A) if a condition dangerous or hazardous to life, physical safety, or property exists;

(B) upon order by any court, the commission or other duly authorized public authority;

(C) if fraudulent or unauthorized use of service is detected and the utility has reasonable grounds to believe the affected customer is responsible for the use;

(D) if the utility's equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for the tampering; or

(E) if the utility's equipment is used in a manner disruptive to the service of other customers.

(2) A utility may disconnect service to a customer based on a delinquent account with the same class of service (such as residential service) for that customer.

(c) Requirements for prohibited disconnections are as follows:

(1) Except as otherwise provided in subsections (a) and (b), a utility shall postpone the disconnection of water service for thirty (30) days if, before the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official that states that disconnection would be a serious and immediate threat to the health and safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10)

day period upon the provision of an additional medical statement to the utility. The utility shall be required to provide the customer a total of forty (40) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection may be made at the utility's discretion.

(2) A utility may not disconnect water service to the customer for any of the following reasons:

- (A) Nonpayment of any nonutility or unregulated utility services.
- (B) Upon the customer's failure to pay for services to a previous occupant of the premises being served unless the utility has reasonable grounds to believe that the customer is attempting to defraud the utility.
- (C) On the basis of the delinquent character of an account of any other person, except if the customer is the guarantor of that other person's account for water service.
- (D) If the customer makes payment arrangements under section 6 of this rule.
- (E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, prior estimates where no actual reading was taken for over two (2) months, or any human or mechanical error of the utility, and the customer:
 - (i) makes a payment arrangement in accordance with the guidelines set forth in section 6 of this rule; and
 - (ii) agrees to pay all undisputed future bills for water service as they become due, provided, however, that the utility may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item (i) and this item shall be put in writing by the utility and sent by mail to the customer.

(d) No utility may disconnect service unless the disconnecting is done between the hours of 8 a.m. and 3 p.m., prevailing local time. Disconnections under subsections (a) and (b) are not subject to this limitation. The utility may not disconnect service for nonpayment:

(1) on any:

- (A) Friday after noon;
- (B) Saturday;
- (C) Sunday; or
- (D) other day the utility's offices are not open for business; or

(2) after noon on any day immediately before a day the utility's office are not open for business.

(e) Requirements for notice required before involuntary disconnection are as follows:

(1) Except as otherwise provided in this section, service to any customer shall not be disconnected for a violation of any rule of the utility or for nonpayment of a bill, except after fourteen (14) days from:

(A) the postmark date of a written notice mailed to the customer at the address shown on the records of the utility, or

Deleted: sent

(B) the notice is personally served upon the customer or a responsible member of the customer's household. No disconnect notice for nonpayment may be rendered before the date on which the account becomes delinquent.

(2) The disconnection notice shall be in language that is clear, concise, and easily understandable to a layperson and shall state, in separately numbered large print paragraphs, the following information:

- (A) The date of the proposed disconnection.
- (B) The specific reason and factual basis for the proposed disconnection.
- (C) The telephone number of the utility office at which the customer may call during regular business hours to question the proposed disconnection or seek information concerning the customer's rights.
- (D) The local and toll-free telephone numbers and office hours of the commission.
- (E) That the customer may refer to the pamphlet furnished under 170 IAC 6-1-18 for information as to the customer's rights.
- (F) Information as to the customer's rights, under this rule, including, but not limited to, the following:
 - (i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency under subsection (c).
 - (ii) That the customer may file a complaint with the utility.
 - (iii) That if the complaint is not resolved by the utility to the customer's satisfaction, the customer may file a complaint with the commission.
 - (iv) That the customer may make payment arrangements under section 6 of this rule.

(f) Utility employees conducting disconnections of service shall follow the following procedures:

- (1) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform the function shall make a reasonable attempt to identify himself or herself to the customer or any other responsible person then upon the premises and shall announce the purpose of his or her presence and shall make a record thereof to be maintained for at least thirty (30) days.
- (2) The employee shall have in his or her possession information sufficient to enable the employee to inform the customer or other responsible person the reason for the disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute and under review by the utility or the commission. Upon the presentation of such credible evidence, service shall not be disconnected.
- (3) The employee shall not be required to accept payment from the customer, user, or other responsible person in order to prevent the service from being disconnected. The utility shall notify the customers under 170 IAC 6-1-18 of its policy with regard to the acceptance or nonacceptance of payment from the employee and shall uniformly follow the policy without discrimination.
- (4) When the employee has disconnected the service, the employee shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) If a utility disconnects service in violation of this rule, the service shall immediately be restored at no charge to the customer. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.2-5*)

170 IAC 6-1.2-6 Payment arrangements and reconnection of service

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2-121; IC 8-1-2-122

Affected: IC 8-1-2; IC 32-34-1-20

Sec. 6. (a) Except in cases where fraudulent or unauthorized use of utility service is detected and the utility has reasonable grounds to believe the customer is responsible for the use, when a residential customer cannot pay an undisputed bill or the undisputed portion of a disputed bill in full, the utility shall continue to serve the customer or reconnect the customer if the customer and the utility agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid (the "payment arrangement") shall be made in accordance with the following guidelines:

- (1) The customer shows just cause for his or her inability to pay (financial hardship shall constitute just cause), and the customer pays a reasonable portion of the amount, not to exceed one-third ($\frac{1}{3}$) of all amounts due (unless the customer agrees to a greater portion) and the customer:
 - (A) agrees to pay:
 - (i) the balance of all amounts due in equal monthly installments; and
 - (ii) all undisputed future bills for utility service as they become due; and
 - (B) has not breached any similar agreement with the utility made under this section in the last twelve (12) months.
- (2) In deciding on the reasonableness of a particular payment arrangement, the utility shall consider the following:
 - (A) The customer's ability to pay.
 - (B) The size of the unpaid balance.
 - (C) The customer's payment history and length of service.
 - (D) The amount of time the debt has been and the reasons why the debt is outstanding.
- (3) The payment arrangement shall provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. The utility shall provide the customer with contact information for the available public assistance programs of which it is aware.
- (4) The payment arrangement is subject to amendment upon the customer's request if there is a change in the customer's financial circumstances.

(5) The utility may add to the outstanding bill a late payment charge not to exceed the amount set under 170 IAC 6-1-13(B); however, only one (1) late payment charge may be assessed against the charges applicable to any given month.

(b) The terms of any payment arrangement made under this section shall be put in writing by the utility and sent by mail to the customer.

(c) If the customer does not meet any of the conditions in subsection (a), the utility may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(d) The utility shall reconnect service to a customer as soon as reasonably possible but at least within one (1) working day after the utility is requested to do so if the customer has satisfied the requirements of this rule.

(e) A utility may charge a reasonable reconnection charge not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of the reconnection fee under 170 IAC 6-1-18. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.2-6)*

170 IAC 6-1.2-7 Customer complaints to the utility

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 7. (a) An applicant or customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the utility. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed two (2) calendar days after the postmark date. In making a complaint or request for conference, the applicant or customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

(1) Immediately notify an applicant or customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance with section 5 of this rule.

(2) Promptly, thoroughly, and completely investigate the complaint in good faith, attempt to confer with the applicant or customer when requested, and notify the applicant or customer of the utility's proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on applicant or customer's credit rating.

(3) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.

(4) Charges that are disputed by the applicant or customer shall not be treated as delinquent while an investigation is pending.

(5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate; however, the utility shall not assess any late payment charge that may have accrued while the investigation was pending.

(6) If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer of the disposition in writing if the complaint was made in writing. If the utility's proposed disposition is not in the applicant or customer's favor, the utility shall notify the applicant or customer in writing or orally, if the complaint was made orally. The notification shall include contact information for the commission, including the commission's mailing address, toll-free complaint number, and local telephone number. A utility shall direct its personnel engaged in contact with an applicant or customer to inform the applicant or customer, if he or she expresses dissatisfaction with the decision of the personnel, of the right to have the problem considered and acted upon by supervisory personnel of the utility. A utility shall further direct the supervisory personnel to notify the applicant or customer who expresses dissatisfaction with the decision of the supervisory personnel of the right to have the problem reviewed by the commission's consumer

affairs division and shall furnish him or her the business address and telephone number of the commission. The notification shall advise the applicant or customer that if he or she is dissatisfied with the utility's disposition, the applicant or customer may, within twenty-one (21) days, file a complaint with the commission's consumer affairs division (under section 8 of this rule). The payment of a deposit as requested by the utility shall not foreclose or in any manner affect the applicant or customer's right to appeal under IC 8-1-2-34.5 or other applicable law.

(c) If at any time the applicant or customer files a complaint with the commission regarding a dispute with a utility, the procedures set forth in section 8 of this rule shall apply. Any disconnection of the applicant or customer's service shall be governed by section 5 of this rule.

(d) A utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. The records shall be maintained at the office or branch office of the utility or in the respective department office thereof where the complaints were received or any conferences were subsequently held. The written records are to be readily available upon request by the:

- (1) concerned applicant or customer;
- (2) applicant or customer's agent possessing written authorization; or
- (3) commission.

(e) A utility shall, at the request of the commission or the office of utility consumer counselor (as established by IC 8-1-1.1), submit a report covering the previous twelve (12) month period to the commission that shall state and classify the following:

- (1) The number of complaints made to the utility under this rule.
- (2) The general nature of the subject matter thereof.
- (3) How the complaint was received.
- (4) Whether a commission review was conducted thereon.

(Indiana Utility Regulatory Commission; 170 IAC 6-1.2-7)

170 IAC 6-1.2-8 Customer complaints to the commission

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-88

Sec. 8. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the applicant or customer shall state, at a minimum, the following:

- (1) His or her name.
- (2) The service address.
- (3) His or her telephone number.
- (4) The name of the utility involved.
- (5) The general nature of his or her complaint.

(b) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of the complaint is pending. The applicant or customer shall continue to pay all undisputed charges. In those instances when the applicant or customer and the utility cannot agree as to what portion of a bill is undisputed, the applicant or customer shall pay on the disputed bill an amount equal to the applicant or customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the applicant or customer has received fewer than twelve (12) bills, the applicant or customer shall pay an amount equal to one-twelfth ($\frac{1}{12}$) of the estimated annual billing for service to be rendered to the applicant or customer.

(c) If the applicant or customer is dissatisfied with a utility's notice of the utility's proposed disposition of the complaint as provided in section 7 of this rule, the applicant or applicant or customer may, within twenty-one (21) days after the postmark date of the notice, file an informal complaint with the commission's consumer affairs division.

(d) Upon receiving an informal complaint, the following actions shall be taken:

- (1) The utility shall be notified that a complaint has been made.
- (2) The complaint shall be investigated.
- (3) The applicant or customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

(1) The applicant or customer or the utility may make a written request that a decision made under subsection (d) be reviewed informally by the consumer affairs director or designee. The written request shall be made within fourteen (14) days of the decision. The records of the commission relating to the reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review in a timely manner. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the applicant or customer. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at a place the consumer affairs director or designee considers appropriate.

(f) The applicant or customer may make a written request that the commission investigate the disposition of the informal review. The written request shall be made within twenty (20) days of the consumer affairs division's notice of disposition. Before entering an order upon a commission investigation, the commission shall afford the applicant or customer and the utility notice and an opportunity to be heard.

(g) Without the applicant or customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least twenty (20) days have elapsed from the postmark date of the consumer affairs division's disposition or the commission's order upon investigation, if any.

(h) The time frames provided in this section may be extended at the discretion of the consumer affairs division.
(*Indiana Utility Regulatory Commission; 170 IAC 6-1.2-8*)

170 IAC 6-1.2-9 Estimated bills

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-4

Sec. 9. (a) Each estimated bill shall be clearly and conspicuously identified as such. Unless otherwise requested by a customer, estimated bills shall not be issued for more than three (3) consecutive months. After three (3) consecutive months of estimating the customer's bill, the utility shall secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.

(b) A utility or billing entity may not render a bill based on estimated usage if:

- (1) the billing would be the customer's first or final bill for service;
- (2) the customer has supplied meter readings to the utility; or
- (3) the customer has requested an actual meter read.

(c) When a utility or billing entity renders an estimated bill in accordance with this article, the utility or billing entity shall maintain accurate records of the reasons therefor and efforts made to secure an actual reading.

(d) When a utility underestimates a customer's usage, the customer shall be given the opportunity to make

payment arrangements as provided in this rule.

(e) A utility may estimate a bill because a meter malfunctioned or failed. If the time when the meter malfunction or error began cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction or error. If the time when the malfunction or error began is greater than six (6) months before the discovery of the malfunction or error, the utility shall not recover any corrected billings, but shall refund to the consumer over-charges, if any. (Indiana Utility Regulatory Commission; 170 IAC 6-1.2-9)

Deleted: can be reasonably determined, the corrected billings shall go back to that time but shall not exceed twelve (12) months

SECTION 4. 170 IAC 7-1.3-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.3-2 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1

Sec. 2. The following definitions apply throughout this rule:

- (1) "Applicant" means any person, company, or designated agent who seeks to become a customer for basic residential or small business telephone services.
- (2) "Basic local service" means the provision to a customer of an access line that transmits two-way interactive switched voice or communication within a local calling area.
- (3) "Business days" means all days other than a:
 - (A) Saturday;
 - (B) Sunday;
 - (C) legal holiday as defined by statute; or
 - (D) day that the utility (or service provider) office is closed during regular business hours.
- (4) "Clear and conspicuous notification" means notice that would be apparent to a reasonable consumer.
- (5) "Commission" means the Indiana utility regulatory commission.
- (6) "Competitive local exchange carrier" or "CLEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and does not qualify as an ~~incumbent~~ **local exchange carrier ILEC** under subdivision (9)-(10).
- (7) "Customer" means the following:
 - (A) Any person that requests and obtains telephone service and is responsible for the **following**:
 - (i) **The** payment of charges.
 - (ii) Compliance with filed tariffs. **and**
 - (iii) Rules of the utility.
 - (B) Any business or institutional entity, whether an individual, partnership, corporation, association, or other business or institutional form that:
 - (i) does or will operate with four (4) or fewer single access lines;
 - (ii) requests and obtains telephone service for occupational, professional, or institutional purposes; and
 - (iii) is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
 - (C) Any customer whose service has been temporarily disconnected shall continue to be a customer for purposes of this rule until such time as service is permanently disconnected and the customer must reapply for new service.
- (8) "Deniable charges" means charges for basic local service. Delinquency in payment of deniable charges may result in disconnection of basic local service.
- (9) "**Disconnection**" means the **termination or discontinuance of utility service.**
- (9) (10) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:
 - (A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or
 - (B) is a person or entity that on or after February 8, 1996, became a successor or assignee of a member described in clause (A).
- (11) "**Late payment charge**" means the one-time penalty assessed by a utility on a customer's account when the account becomes delinquent.

(10) (12) "Local exchange carrier" or "LEC" means a local serving telephone utility that provides telephone service to customers in the geographic territory served by the local exchange, and excluding those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service.

(11) (13) "Long distance service" or "toll service" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis.

(12) (14) "New service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. The term includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill unless the service is subsequently canceled.

(13) (15) "Nondeniable charges" means charges for toll service and unregulated telecommunications services. Delinquency in payment of nondeniable charges shall not result in disconnection of basic local service.

(14) (16) "Temporary disconnection" means a disconnection that has not yet resulted in the customer's account being permanently removed from the telephone provider's network.

(15) (17) "Utility" means any public utility (as defined in IC 8-1-2-1) or ~~municipal utility (as defined in IC 8-1-5-1-10)~~ that furnishes telephone service to the public under the jurisdiction of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-2; filed Aug 7, 2002, 10:05 a.m.; 25 IR 4066, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata, 26 IR 1565; errata, 26 IR 2375)

SECTION 5. 170 IAC 7-1.3-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.3-3 Creditworthiness of residential customer; deposit; refund

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88; IC 32-34-1

Sec. 3. (a) Each A LEC shall determine the creditworthiness of applicants or customers in an equitable and nondiscriminatory manner:

(1) without regard to: ~~the~~

(A) race;

(B) color;

(C) creed;

(D) religion;

(E) sex;

(F) national origin; or

(G) marital status; ~~of the applicant or customer; or the economic character of the area wherein the applicant or customer resides or operates; and~~

(H) receipt of public assistance; or

(I) ~~the economic character of the area wherein the applicant or customer resides or operates;~~

(J) ~~age; and~~

(2) solely upon the credit risk of the individual applicant or customer without regard to the:

(A) collective credit reputation of the area in which the applicant or customer resides or operates; **and**

(B) **credit history of any other individual residing in the household or the applicant or customer's spouse.**

(3) Nothing in this rule or Title 8 of the Indiana Code shall alter, restrict or eliminate a utility's duty to comply with state and federal anti-discrimination laws.

(b) Each new applicant for residential telephone service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving basic local service if the applicant satisfies either of the following criteria:

(1) The applicant has been a customer of a public or municipal utility in the United States within the last two (2) years; and the applicant:

(A) owes no outstanding bills for service rendered within the past four (4) years by such utility;

(B) during the last twelve (12) consecutive months that the service was provided; did not have more than two (2) bills that were delinquent to such utility or; if service was rendered for a period for less than twelve (12) months; did not have more than one (1) delinquent bill in such period; and

(C) within the last two (2) years did not have a service disconnected by such utility for nonpayment of a bill for services rendered by that utility.

(2) The applicant has not been a customer of a utility during the previous two (2) years and any of the following criteria are met:

(A) The applicant either has been employed by:

- (i) his or her present employer for two (2) years;
- (ii) his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
- (iii) the present employer for less than two (2) years and has no previous employment due to recently:
 - (AA) graduating from a school, university, or vocational program; or
 - (BB) being discharged from military service.

(B) The applicant either:

- (i) owns or is buying his or her home; or
- (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(b) A LEC may require a residential service applicant or customer to satisfactorily establish his or her financial responsibility (creditworthiness).

(1) If the applicant or customer has received residential service furnished to him or her at the same or at another address within the past twelve (12) months, the LEC may require a deposit or other reasonable guarantor to secure payment of bills before providing local exchange service only if:

(A) The applicant or customer is unable to demonstrate that the applicant has made timely payment for such local exchange service in at least ten (10) of the past twelve (12) months;

(B) The applicant or customer is unable to demonstrate that such local exchange service has not been disconnected within the past twelve (12) months; and

(C) The applicant or customer has failed to pay for past due local exchange service furnished to him or her at the same or at another address within the past four (4) years; or

(2) If the applicant or customer has not received residential service furnished to him or her at the same or at another address within the past twelve (12) months, the applicant or customer shall be deemed creditworthy provided any of two (2) of the following criteria are met: (A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program;

(BB) being discharged from military service; or

(CC) being divorced.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) A bill for one (1) class of service (such as commercial) shall not be transferred to a bill for another class of service (such as residential), nor shall a bill for one (1) form of utility service (such as telephone) be transferred to a bill for another form of utility service (such as electric). Local exchange service shall not be denied for nonpayment of bills for merchandise or other nonutility or unregulated services.

(dx) Utilities may request that a customer provide a Social Security Number for legitimate business purposes such as establishing positive identification and creditworthiness provided that, whenever such a request is made, the utility also informs the consumer of reasonable alternative methods of meeting the legitimate business purpose that would not require the disclosure of the consumer's Social Security Number.

Deleted: The LEC may require a deposit or other reasonable guarantor to secure payment of bills before providing local exchange service if the applicant or customer is not deemed creditworthy because the applicant or customer:

Deleted: does not meet or exceed the predetermined minimum credit score selected by the LEC using a credit scoring system as provided in the LEC's tariff; or¶
(2)

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(e) (d) If the applicant or customer fails to establish that he or she is creditworthy under subsection (b), the applicant or customer may be required to make a reasonable initial cash deposit. ~~Such initial~~ The deposit shall not exceed one-sixth ($\frac{1}{6}$) of the estimated annual billings for local service at the address at which service is rendered to the applicant or customer and shall be paid in full before installation of service, ~~Such subject to the provisions of section 11 of this rule; provided, however, that a deposit shall be based upon estimated local regulated telecommunications service charges only. If a deposit is greater than seventy dollars (\$70) but less than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than two (2) months, and service shall be connected upon receipt by the utility of the first payment. If a deposit is greater than one hundred fifty dollars (\$150), the LEC shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no fewer than three (3) months, and service shall be connected upon receipt by the LEC of the first payment. For example, if the total deposit required by a LEC under this section is one hundred eighty dollars (\$180), the applicant or customer could make three (3) payments of sixty dollars (\$60) over a three (3) month period, and service would be connected after the first sixty dollar (\$60) payment. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule in order to receive service. An initial deposit made by a customer shall be subject to reevaluation upon the request of either the LEC or the customer, based upon actual charges for services rendered, at any time after service has been provided.~~

(4) (e) The utility LEC may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility LEC within its discretion, of payment for all telephone service rendered or requested to be rendered to the applicant or customer. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. Said The guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant's applicant or customer's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of either:

- (1) nine (9) consecutive months; or
- (2) ten (10) out of any twelve (12) consecutive months.

(e) (f) If the utility LEC requires a cash deposit or a written guarantee as a condition of providing service, the utility LEC shall advise the applicant or customer of the reason upon which it the LEC bases its decision and provide the applicant or customer with an opportunity to rebut such the facts and show other facts demonstrating creditworthiness. If the LEC provides both regulated local and unregulated local and long distance service, the utility shall also advise the applicant or customer of the amount of the deposit assigned to each type of service and of the applicant or customer's right to purchase services singularly.

(4) (g) The LEC may require a present an existing customer to make a reasonable cash deposit, or an additional deposit in cases where a deposit has been made when and exhausted under this rule, under any of the following circumstances:

- (1) The customer has been mailed disconnect notices for:
 - (A) two (2) consecutive months; or
 - (B) any three (3) months within the preceding twelve (12) month period.
- (2) The service to the customer has been disconnected within the past forty-five (45) days for nonpayment.

In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make said the deposit. When the service has been disconnected within the past four (4) years pursuant to under section 11 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for local service pursuant to under this section may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the annualized estimated billings for local service to the customer at the address at which service is rendered. **The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule.**

(g) (h) The LEC shall treat customers who have filed bankruptcy under federal law in accordance with the protective

provisions of 11 U.S.C. 366, effective October 22, 1994.

~~(h)~~ (i) Requirements for interest upon a deposit shall be as follows:

- (1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States treasury bills. The interest rate will be rounded to the nearest one-half (½) of one percent (1%). A utility shall calculate the amount of interest earned on a customer deposit by compounding interest daily and crediting interest monthly. In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.
- (2) The deposit shall not earn interest after the date ~~it~~ the deposit is mailed or personally delivered to the customer, or otherwise lawfully disposed of as provided in subsection ~~(h)(6)~~ (j)(6).

~~(i)~~ (j) Requirements for refunds shall be as follows:

- (1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.
- (2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.
- (3) Following a customer requested termination of service, the LEC shall **do the following**:
 - (A) Apply the deposit, plus accrued interest, to the final bill. ~~or~~
 - (B) ~~upon specific request from the customer,~~ Refund the **any remaining** deposit, plus accrued interest, within fifteen (15) business days after payment of the final bill.
- (4) ~~Each~~ A LEC shall maintain a record of each applicant or customer making a deposit that shows the following:
 - (A) The name of the customer.
 - (B) The current mailing address of the customer.
 - (C) The amount of the deposit.
 - (D) The date the deposit was made.
 - (E) A record of each transaction affecting ~~such~~ the deposit.
- (5) ~~Each~~ A customer shall be provided a written receipt from the LEC at the time the customer's deposit is paid in full or ~~when any time~~ the customer makes a ~~each~~ partial payment. The LEC shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.
- (6) Any deposit made by the applicant or customer to the LEC (less any lawful deductions to be refunded), or any sum the LEC is ordered to refund for telephone services that has remained unclaimed for one (1) year after the LEC has made a diligent effort to locate the customer who made ~~such~~ the deposit or the heirs of ~~such~~ the customer, shall be presumed abandoned and treated in accordance with ~~IC 32-34-1-20(e)~~ IC 32-34-1 et seq.
- (7) A deposit may be used by the LEC to cover any unpaid balances owed the LEC following disconnection of any service under section 11 of this rule, provided, however, that any surplus be returned to the customer as provided in this ~~subsection:~~ section.
- (8) Establishment of credit by ~~each~~ deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills.

(k) A deposit shall not be applied to satisfy an applicant or customer's bill, prior arrearage, or outstanding indebtedness that is greater than four (4) years old; however, a LEC may pursue the unpaid balances via collections or other means provided by applicable law.

(l) This provision applies to deposits greater than seventy-five dollars (\$75). At the end of every year of service, if the deposit plus interest is not refunded to the customer, the LEC shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and stating this credit clearly on the customer's next regular bill.

(m) A customer who fails to pay a bill by the time specified by the regulations of the LEC and commission regarding the prompt payment of bills, and who further fails to pay the bill within a reasonable period after presentation of a disconnection of service notice for nonpayment, may be required to pay the bill and to

reestablish credit by making a deposit under this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-3; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4067, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:54 p.m.: 26 IR 382*)

SECTION 6. 170 IAC 7-1.3-8 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.3-8 Customer complaints to the utility

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2

Sec. 8. (a) ~~A~~ **An applicant or** customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. ~~Such~~ **The** complaints may be made in person, by telephone, in writing, or by completing a **written or electronic** form available from the utility. ~~at its business offices.~~ A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed two (2) calendar days after the postmark date. In making a complaint or request for conference, ~~the applicant or~~ customer shall state, at a minimum, **the following:**

- (1) His or her name.
- (2) ~~The~~ service address.
- (3) ~~His or her~~ telephone number. ~~and~~
- (4) The general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

- (1) Immediately notify ~~a~~ **an applicant or** customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance ~~with~~ section 11 of this rule.
- (2) Promptly, thoroughly, and completely investigate ~~such~~ **the** complaint in good faith, attempt to confer with the **applicant or** customer when requested, and notify the **applicant or** customer of ~~its~~ **the utility's** proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on ~~the applicant or~~ customer's credit rating.
- (3) Without the **applicant or** customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.
- (4) Charges that are disputed by the **applicant or** customer shall not be treated as delinquent while an investigation is pending.
- (5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate; **however, the utility shall not assess any late payment charge that may have accrued while the investigation was pending.**
- (6) If the utility's proposed disposition is not in the **applicant or** customer's favor, the utility shall notify the **applicant or** customer of ~~such~~ **the** disposition in writing if the complaint was made in writing. If the utility's proposed disposition is not in the **applicant or** customer's favor, the utility shall notify the **applicant or** customer in writing or orally, if the complaint was made orally. **A utility shall direct its personnel engaged in contact with an applicant or customer to inform the applicant or customer, if he or she expresses dissatisfaction with the decision of the personnel, of the right to have the problem considered and acted upon by supervisory personnel of the utility. A utility shall further direct the supervisory personnel to notify the applicant or customer who expresses dissatisfaction with the decision of the supervisory personnel of the right to have the problem reviewed by the commission's consumer affairs division and shall furnish him or her the business address and telephone number of the commission.** The notification shall advise the customer or applicant that if he or she is dissatisfied with the telephone company's disposition, the customer or applicant may, within twenty-one (21) days, file a complaint with the commission's consumer affairs division (~~pursuant to~~ **(under** section 9 of this rule). ~~Such~~ **The** notification shall include contact information for the commission, including the commission's mailing address, toll-free complaint number, and local telephone number. **The payment of a deposit as requested by the utility shall not foreclose or in any manner affect the applicant or customer's right to appeal under IC 8-1-2-34.5 or other applicable law.**

(c) If at any time the **applicant or** customer files a complaint with the commission regarding a dispute with a utility,

the procedures set forth in section 9 of this rule shall apply. Any disconnection of the **applicant or** customer's service shall be governed by section 11 of this rule.

(d) ~~Each~~ A utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. ~~Such~~ The records shall be maintained at the office or branch office of the utility or in the respective department office thereof where ~~such~~ the complaints were received or any conferences were subsequently held. ~~Such~~ The written records are to be readily available upon request by the:

- (1) concerned **applicant or** customer; ~~the~~
- (2) **applicant or** customer's agent possessing written authorization; or ~~the~~
- (3) commission.

(e) ~~Each~~ A utility shall, at the request of the commission or the office of utility consumer counselor (as established by IC 8-1-1.1), submit a report covering the previous twelve (12) month period to the commission that shall state and classify **the following**:

- (1) The number of complaints made to the utility ~~pursuant to~~ under this rule.
- (2) The general nature of the subject matter thereof.
- (3) How the complaint was received. ~~and~~
- (4) Whether a commission review was conducted thereon.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8; filed Aug 7, 2002, 10:05 a.m.; 25 IR 4070, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

SECTION 7. 170 IAC 7-1.3-9 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.3-9 Customer complaints to the commission

Authority: IC 8-1-1-3; IC 8-1-2-34.5

Affected: IC 8-1-2-34.5; IC 8-1-2-88

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. ~~Such~~ The complaints may be made in person, by telephone, in writing, or by completing a **written or electronic** form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the **applicant or** customer shall state, at a minimum, **the following**:

- (1) His or her name.
- (2) ~~The~~ service address.
- (3) ~~His or her~~ telephone number. ~~and~~
- (4) ~~The name of the utility involved.~~
- (5) The general nature of his or her complaint.

(b) Without the **applicant or** customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of ~~such~~ the complaint is pending. The **applicant or** customer shall continue to pay all undisputed charges. In those instances when the **applicant or** customer and the utility cannot agree as to what portion of a bill is undisputed, the **applicant or** customer shall pay on the disputed bill an amount equal to the **applicant or** customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the **applicant or** customer has received fewer than twelve (12) bills, the **applicant or** customer shall pay an amount equal to one-twelfth ($\frac{1}{12}$) of the estimated annual billing for service to be rendered to the **applicant or** customer.

(c) If the **applicant or** customer is dissatisfied with a utility's notice of ~~its~~ the utility's proposed disposition of the complaint as provided in section 8 of this rule, the customer or applicant may, within twenty-one (21) days after the postmark date of the notice, file a ~~consumer an informal~~ complaint with the commission's consumer affairs division.

(d) Upon receiving a ~~consumer an informal~~ complaint, the following actions shall be taken:

- (1) The utility shall be notified that a complaint has been made.

(2) The complaint shall be investigated.

(3) The **applicant or** customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

(1) The **applicant or** customer or the utility may make a written request that a decision made ~~pursuant to~~ **under** subsection (d) be reviewed informally by the consumer affairs director or designee. ~~Such~~ **The** written request shall be made within fourteen (14) days of the decision. The records of the commission relating to ~~such~~ **the** reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review ~~within thirty (30) days~~ **in a timely manner**. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the **applicant or** customer and the utility. ~~within thirty (30) days after its receipt of the customer's request~~. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at ~~such~~ **a** place as the consumer affairs director or designee ~~may consider~~ **considers** appropriate.

(f) The **applicant or** customer may make a written request that the commission investigate the disposition of the informal review. ~~Such~~ **The** written request shall be made within ~~fourteen (14)~~ **twenty (20)** days of the consumer affairs division's notice of disposition. ~~Prior to~~ **Before** entering an order upon a commission investigation, the commission shall afford the **applicant or** customer and the utility notice and an opportunity to be heard.

(g) Without the **applicant or** customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least ~~fourteen (14)~~ **twenty (20)** days have elapsed from the postmark date of the consumer affairs ~~division~~ **division's** disposition or the commission's order upon investigation, if any.

(h) **The time frames provided in this section may be extended at the discretion of the consumer affairs division.**
(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-9; filed Aug 7, 2002, 10:05 a.m.; 25 IR 4071, *eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

SECTION 8. 170 IAC 7-1.3-10 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.3-10 Customer payments

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 10. (a) **Except in cases where fraudulent or unauthorized use of utility service is detected and the LEC has reasonable grounds to believe the customer is responsible for the use**, when a residential customer cannot pay an undisputed bill or the undisputed portions of a disputed bill in full, the LEC shall continue to serve the customer **or shall reconnect the customer** if the customer and the LEC agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid **(the "payment arrangement") shall be made** in accordance with the following guidelines:

(1) ~~If~~ The customer shows just cause for his or her inability to pay deniable charges (financial hardship shall constitute just cause), and the customer pays a reasonable portion of ~~such~~ **the** amount, not to exceed ~~the greater of either twenty dollars (\$20) or twenty-five percent (25%)~~ **one-third ($\frac{1}{3}$)** of all amounts due for deniable charges **(unless the customer agrees to a greater portion)**.

(2) In deciding on the reasonableness of a particular agreement, the LEC shall consider the following:

(A) The customer's ability to pay.

(B) The size of the unpaid balance.

(C) The customer's payment history and length of service.

(D) The amount of time **the debt has been** and the reasons why the debt is outstanding.

(E) The customer:

(i) agrees to pay:

(AA) the balance of all amounts due in equal monthly installments; **and**

(ii) ~~agrees to pay~~ **(BB)** all undisputed future bills for local service as they become due; and

(iii) (ii) has not breached any similar agreement with the LEC made pursuant to under this section in the last twelve (12) months.

(3) The payment arrangement shall provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. The utility shall provide the customer with contact information for the available public assistance programs of which it is aware.

(4) The payment arrangement is subject to amendment upon the customer's request if there is a change in the customer's financial circumstances.

(5) The LEC may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to section 6(d) under section 6(c) of this rule.

(b) The terms of any payment arrangement made pursuant to under this section shall be put in writing by the LEC and sent by mail to the customer.

(c) Only one (1) late payment charge may be assessed against the charges applicable to any given month.

(d) If the customer does not meet any of the conditions in subsection (a), the LEC may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(e) If a customer makes a partial payment on a bill, the LEC shall first apply that payment to any deniable charges. A partial payment may only be applied to nondeniable charges when all deniable charges have been paid in full.

(e) The LEC shall reconnect service to a customer as soon as reasonably possible but at least within one (1) working day after the LEC is requested to do so if the customer has satisfied the requirements of this rule.

(f) A LEC may charge a reasonable reconnection charge not to exceed the charge approved by the commission in the LEC's filed tariffs. A LEC shall inform its customers of the reconnection fee under section 5 of this rule.

(g) Partial payments applied toward any past due amount on a bill or on the balance due on a disconnection notice shall be apportioned to past due regulated local service charges, then to any current local charges, before being applied by the LEC to any toll or nonregulated charges, unless the customer pays the entire amount past due or more for regulated services. In that case, any amount paid over the amount past due shall be applied first to current local charges.

(h) A LEC shall provide toll-block service to all consumers upon request and at no charge. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-10; filed Aug 7, 2002, 10:05 a.m.; 25 IR 4072, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

SECTION 9. 170 IAC 8.5-2-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-2-1 Applicability and scope; billing for service

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 1. Bills for (a) This rule applies to any sewage disposal company that is now, or may hereafter be, engaged in the business of rendering service (a) to the public under the jurisdiction of the commission.

(b) This rule creates the minimum level of service that a sewage disposal company is expected to meet when providing reasonable quality sewage disposal services to the public and to establish the obligations of both the sewage disposal company and the customer.

(c) No sewage disposal company shall discriminate against or penalize a customer for exercising any right granted by this rule. If a sewage disposal company's tariff on file with the commission contains provisions that conflict with this rule, this rule shall supersede any conflicting tariff provisions.

(d) Any sewage disposal company subject to this rule that fails to meet the standards established in this rule shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and hearing, the commission may order lawful enforcement mechanisms against a public sewage disposal company that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any public sewage disposal company fails to comply.

(e) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any sewage disposal company or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

- (1) Altering or amending this rule in whole or in part.
- (2) Requiring any other or additional service, equipment, facility, or standard.
- (3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.
- (4) Requiring a sewage disposal company to comply with any other service standards.
- (5) At its sole discretion, granting, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

The adoption of this rule shall not in any way relieve any sewage disposal company from any of its duties under the law of this state or rules and orders of the commission.

(f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, the provision shall be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions hereof.

(g) Bills rendered periodically to customers for sewage disposal service shall show at least the following information:

- (1) The date of the bill, the time period for which the bill is rendered, or the dates and readings of the water meter, if used as the basis for the sewage bill, at the beginning and end of the billing period.
- (2) The number and kind of units of service supplied, if based upon metered water consumption.
- (3) The billing rate code, if any.
- (4) The previous balance, if any.
- (5) The amount of the bill.
- (6) The sum of the amount of the bill and the late payment charge, if any.
- (7) The date on which the bill becomes delinquent and on which a late payment charge will be added to the bill.
- (8) If an estimated bill of a customer whose sewage bill is based on metered water service, a clear and conspicuous coding or other indication identifying the bill as an estimated bill.
- (9) Printed statements ~~and/or~~ or actual figures, **or both**, on either side of the bill shall inform the customer of the seventeen (17) day nonpenalty period.
- (10) An explanation, which can be readily understood, of all codes ~~and/or~~ or symbols, **or both**, used on the bill.

~~(b)~~ (h) **Requirements concerning delinquencies shall be as follows:**

- (1) A sewage disposal service bill ~~which~~ **that** has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill shall be a delinquent bill.
- (2) A sewage disposal bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, ~~it the bill~~ shall become a delinquent bill and a late payment charge may be added in the amount of ten ~~(10)~~ percent **(10%)** of the first three ~~(2)~~ dollars **(\$3)** and three ~~(3)~~ percent **(3%)** of the excess of three ~~(2)~~ dollars **(\$3)**.

~~(e) Estimated Billing:~~ (i) A sewage disposal company may estimate the bill of any customer whose sewage bill is based on metered water service ~~pursuant to~~ **under** a billing procedure approved by the commission or for other good cause, including, but not limited to, **the following:**

- (1) Request of ~~the~~ customer.
- (2) Inclement weather.
- (3) Labor or union disputes.

(4) Inaccessibility of a customer's meter if the company has made a reasonable attempt to read it; ~~and the meter.~~

(5) Other circumstances beyond the control of the sewage disposal company, its agents, and employees.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 13; filed Dec 9, 1981, 10:20 a.m.: 5 IR 15; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 10. 170 IAC 8.5-2-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-2-3 Creditworthiness guidelines; deposit to ensure payment of bill

Authority: IC 8-1-1-3

Affected: IC 32-34-1-20

Sec. 3. (a) Each A sewage disposal company shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

(1) without regard to:

- (A) race;
- (B) color;
- (C) creed;
- (D) religion;
- (E) national origin;
- (F) sex;
- (G) marital status;
- (H) receipt of public assistance; or
- (I) the economic character of the area wherein the applicant or customer resides;
- (J) ~~age~~; and

(2) solely upon the credit risk of the individual **applicant or customer** without regard to the:

- (A) collective credit reputation of the area in which he or she lives; **and**
- (B) **credit history of any other individual residing in the household or the applicant or customer's spouse.**

(3) Nothing in this rule or Title 8 of the Indiana Code shall alter, restrict or eliminate a utility's duty to comply with state and federal anti-discrimination laws.

(b) Each new applicant for residential sewage disposal service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:

(1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:

- (A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;
- (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and
- (C) within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.

(2) If the applicant has not been a customer of a utility during the previous two (2) years, the applicant shall be deemed creditworthy if any two (2) of the following criteria are met:

(A) The applicant either:

- (i) has been employed by his or her present employer for two (2) years;
- (ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
- (iii) has been employed by the present employer for less than two (2) years and has no previous employer due to recently:

(AA) graduating from a school, university, or vocational program; or

(BB) being discharged from military service.

(B) The applicant either:

- (i) owns or is buying his or her home; or
- (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern

unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months:

(b) A sewage disposal company may require a residential service applicant or customer to satisfactorily establish his or her financial responsibility (creditworthiness).

(1) If the applicant or customer has received sewage disposal service furnished to him or her at the same or at another address within the past twelve (12) months, the sewage disposal company may require a deposit or other reasonable guarantor to secure payment of bills before providing sewage disposal service only if:

(A) The applicant or customer is unable to demonstrate that the applicant has made timely payment for such sewage disposal service in at least ten (10) of the past twelve (12) months;

(B) The applicant or customer is unable to demonstrate that such sewage disposal service has not been disconnected within the past twelve (12) months; and

(C) The applicant or customer has failed to pay for past due sewage disposal service furnished to him or her at the same or at another address within the past four (4) years.

(2) If the applicant or customer has not received sewage disposal service furnished to him or her at the same or at another address within the past twelve (12) months, the applicant or customer shall be deemed creditworthy provided any of two (2) of the following criteria are met: (A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:

(AA) graduating from a school, university, or vocational program;

(BB) being discharged from military service; or

(CC) being divorced.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) A bill for one (1) class of service (such as commercial) shall not be transferred to a bill for another class of service (such as residential), nor shall a bill for one (1) form of sewage disposal service (such as sewer) be transferred to a bill for another form of sewage disposal service (such as water). Sewage disposal service shall not be denied for nonpayment of bills for merchandise or other nonutility or unregulated services.

(d) Sewage disposal companies shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366, effective October 22, 1994.

(e-x) Utilities may request that a customer provide a Social Security Number for legitimate business purposes such as establishing positive identification and creditworthiness provided that, whenever such a request is made, the utility also informs the consumer of reasonable alternative methods of meeting the legitimate business purpose that would not require the disclosure of the consumer's Social Security Number.

(e) If the applicant or customer fails to establish that he or she is creditworthy under subsection (b), the applicant or customer may be required to make a reasonable cash deposit. ~~Such~~ The deposit shall not exceed one-sixth ($\frac{1}{6}$) of the estimated annual cost of billings for regulated sewage disposal service at the address at which service to be is rendered to the applicant or customer and shall be paid in full before establishment of service, subject to the provisions of section 4 of this rule; provided, however, that a deposit shall be based upon estimated regulated sewage disposal service charges only. If a deposit is greater than seventy dollars (\$70) but less than one hundred fifty dollars (\$150), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay the deposit in equal installment payments over a period of no

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fewer than two (2) months, and service shall be connected upon receipt by the utility of the first payment. If a deposit is greater than seventy one hundred fifty dollars (\$70), (\$150), the sewage disposal company shall advise the applicant or customer simultaneously with making a demand for a deposit that he or she the applicant or customer may pay such the deposit in equal installment payments over a period of no less fewer than eight (8) weeks; three (3) months, and service shall be connected upon receipt by the sewage disposal company of the first such payment. For example, if the total deposit required by a sewage disposal company under this section is one hundred eighty dollars (\$180), the applicant or customer could make three (3) payments of sixty dollars (\$60) over a three (3) month period, and service would be connected after the first sixty dollar (\$60) payment. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule in order to receive service. An initial deposit made by a customer shall be subject to reevaluation upon the request of either the sewage disposal company or the customer, based upon actual charges for services rendered, at any time after service has been provided.

~~(d) (f)~~ If the sewage disposal company requires a cash deposit or a written guarantee as a condition of providing service, then ~~it~~ the sewage disposal company must immediately notify the applicant or customer in writing stating the precise facts upon which ~~it~~ the sewage disposal company based its decision and provide the applicant or customer with an opportunity to rebut such the facts and show other facts demonstrating his or her creditworthiness. ~~as provided under subsection (b):~~

~~(e) (g)~~ A sewage disposal company may require a present an existing customer to make a reasonable cash deposit, when or an additional deposit in cases where a deposit has been made and exhausted under this rule under any of the following circumstances:

- (1) The customer has been mailed disconnect notices for two (2) consecutive months.
- (2) The customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period. ~~or~~
- (3) The service to the customer has been disconnected within the past four (4) years pursuant to forty-five (45) days under section 4 of this rule.

In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make the deposit. The amount of such the deposit may not exceed an amount equal to one-sixth ($\frac{1}{6}$) of the expected annual billings for regulated sewage disposal service to the customer at the address at which sewage disposal service is rendered. In the event the required deposit is in excess of seventy dollars (\$70), the sewage disposal company shall advise the customer that he or she may pay such deposit in equal installment payments over a period of up to eight (8) weeks, except where such deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection. When the service has been disconnected within the past four (4) years under section 4 of this rule, the deposit shall be provided before the service will be reconnected. The applicant or customer shall not be required to make any advanced payments in addition to or in lieu of a deposit required by this rule.

~~(f) (h)~~ Requirements for interest upon deposits shall be as follows:

- (1) ~~Deposits~~ A deposit held more than twelve (12) months thirty (30) days shall earn interest from the date of deposit, at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then existing rate for one (1) year United States Treasury Constant Maturity securities. The interest rate shall be rounded to the nearest one-half ($\frac{1}{2}$) of one percent (1%). A utility shall calculate the amount of interest earned on a customer deposit by compounding interest daily and crediting interest monthly. In December of each year, the commission shall issue a general administrative order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.
- (2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed of under subsection (i).

~~(g) (i)~~ Requirements for refunds shall be as follows:

- (1) Any deposit or accrued interest shall be promptly refunded to the customer without the customer's request when the

customer

- (A) submits satisfactory payment for a period of either:
 - (i) ~~nine (9) successive months; or~~
 - (ii) ~~ten (10) out of any twelve (12) consecutive months without late payment. in two (2) consecutive months; or~~
 - (B) ~~demonstrates his or her creditworthiness as provided by subsection (b);~~
- (2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.
- (3) Following customer requested termination of service, the ~~utility~~ **sewage disposal company** shall **do the following**:
 - (A) Apply the deposit, plus accrued interest, to the final bill. ~~or~~
 - (B) ~~upon specific request from the customer, Refund the remaining deposit plus and~~ accrued interest within fifteen (15) days after the payment of the final bill.
- (4) Each sewage disposal company shall maintain a record of each applicant or customer making a deposit that shows the following:
 - (A) The name of the customer.
 - (B) The current **mailing** address of the customer. ~~so long as he or she maintains an active account with the sewage disposal company in his or her name.~~
 - (C) The amount of the deposit.
 - (D) The date the deposit was made.
 - (E) A record of each transaction affecting ~~such~~ the deposit.
- (5) Each customer shall be provided a written receipt from the **sewage disposal** company at the time his or her deposit is paid in full or when he or she makes a ~~cash~~ partial payment. The **sewage disposal** company shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.
- (6) Any deposit made by the applicant, ~~the~~ customer, or any other person to the **sewage disposal** company (less any lawful deductions ~~to be refunded~~), or any sum the **sewage disposal** company is ordered to refund for sewage disposal service, that has remained unclaimed for one (1) year after the company has made diligent efforts to locate the person who made ~~such~~ the deposit or the heirs of ~~such~~ the person, shall be presumed abandoned and treated in accordance with ~~IC 32-9-1-5-20(e)(10); IC 32-34-1 et seq.~~
- (7) A deposit may be used by the sewage disposal company to cover any unpaid balance following disconnection of service ~~under section 16 of this rule~~ provided, however, that any surplus be returned to the customer as provided in ~~subsection (f) and this subsection: section.~~
- (j) A deposit shall not be applied to satisfy an applicant or customer's bill, prior arrearage, or outstanding indebtedness that is greater than four (4) years old; however, a sewage disposal company may pursue the unpaid balances via collections or other means provided by applicable law.
- (k) **This provision applies to deposits greater than seventy-five dollars (\$75). At the end of every year of service, if the deposit plus interest is not refunded to the customer, the sewage disposal company shall automatically refund the accrued interest on the deposit to the customer by crediting the customer's account and stating this credit clearly on the customer's next regular bill.**
- (l) A customer who fails to pay a bill by the time specified by the regulations of the sewage disposal company and commission regarding the prompt payment of bills, and who further fails to pay the bill within a reasonable period after presentation of a disconnection of service notice for nonpayment, may be required to pay the bill and to reestablish credit by making a deposit under this rule.
- (m) Establishment of credit by deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills. *(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 15; filed Dec 9, 1981, 10:20 a.m.: 5 IR 16; filed Oct 19, 1998, 10:14 a.m.: 22 IR 736; errata filed Sep 10, 1999, 10:39 a.m.: 23 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

SECTION 11. 170 IAC 8.5-2-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-2-4 Disconnection and prohibited disconnections

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 4. (a) ~~Without~~ Requirements for disconnection upon a customer's request are as follows:

(1) The customer shall notify the sewage disposal company at least three (3) business days in advance of the day disconnection is desired. The customer shall remain responsible for all sewage disposal service used and the billing therefor until the date the customer has requested disconnection pursuant to the notice.

(2) Upon request by a customer to a sewage disposal company to disconnect sewage disposal service in fewer than three (3) business days, the sewage disposal company shall disconnect the sewage disposal service within three (3) business days of the request. The customer shall not be liable for any sewage disposal service rendered to the address after the expiration of the three (3) days.

(3) The customer shall not charge sewage disposal service or authorize the charging of sewage disposal service to any account that has been disconnected at the customer's request or otherwise. A customer shall be responsible for any services he or she charges or authorizes charged to the disconnected account in violation of the prohibition in this subdivision.

(b) Requirements for disconnection without the customer's request are as follows:

(1) A sewage disposal company may disconnect sewage disposal service without request by the customer and without prior notice only:

(A) if a condition dangerous or hazardous to life, physical safety, or property exists; or

(B) upon order by any court, the commission, or other duly authorized public authority; or

(C) if fraudulent or unauthorized use of sewage disposal service is detected and the sewage disposal company has reasonable grounds to believe the affected customer is responsible for such the use; or

(D) if the sewage disposal company's regulating or measuring equipment has been tampered with and the sewage disposal company has reasonable grounds to believe that the affected customer is responsible for such the tampering; or

(E) if the sewage disposal company's equipment is used in a manner disruptive to the sewage disposal service of other customers.

(2) In all other instances, A sewage utility upon providing the customer with proper notice (as defined in Rule 16(E)), disposal company may disconnect sewage disposal service subject to the other provisions of these rules, to a customer based on a delinquent account with the same class of service (such as residential service) for that customer.

(b) (c) Requirements for prohibited disconnection are as follows:

(1) Except as otherwise provided in Rule 16(B) subsections (a) and (b), a sewage disposal company shall postpone the disconnection of sewage disposal service for ten (10) thirty (30) days if, prior to before the disconnect date specified in the disconnect notice, the customer provides the sewage disposal company with a medical statement from a licensed physician or public health official which that states that a disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional such medical statement to the sewage disposal company. The sewage disposal company shall be required to provide the customer a total of forty (40) days postponement of disconnection for medical reasons under this subsection only once in any twelve (12) month period. Further postponement of disconnection may be made at the sewage disposal company's discretion.

(2) A sewage disposal company may not disconnect sewage disposal service to the customer for any of the following reasons:

(A) Upon his failure to pay for the service rendered at a different metering point, residence, or location if such bill has remained unpaid for less than forty-five (45) days;

(A) Nonpayment of any nonutility or unregulated utility services.

(B) Upon his the customer's failure to pay for services to a previous occupant of the premises to be being served, unless the sewage disposal company has good reason reasonable grounds to believe the that customer is attempting to defraud the sewage disposal company, by using another name;

(C) Upon his failure to pay for a different form or class On the basis of the delinquent character of an account of any other person, except if the customer is the guarantor of that other person's account for sewage disposal service. ~~or~~

(D) If the customer makes payment arrangements under clause (F).

(E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, prior estimates where no actual reading was taken for over two (2) months, or any human or mechanical error of the sewage disposal company, and the customer:

(i) makes a payment arrangement in accordance with the guidelines set forth in clause (F); and

(ii) agrees to pay all undisputed future bills for sewage disposal service as they become due, provided, however, that the sewage disposal company may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item (i) and this item shall be put in writing by the sewage disposal company and sent by mail to the customer.

(~~D~~) (F) Except in cases where fraudulent or unauthorized use of sewage disposal service is detected and the sewage disposal company has reasonable grounds to believe the customer is responsible for the use, when a residential customer cannot pay an undisputed bill or the undisputed portion of a disputed bill in full, the sewage disposal company shall continue to serve the customer or reconnect the customer if the customer and the sewage disposal company agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid (the "payment arrangement") shall be made in accordance with the following guidelines:

(i) If the customer shows just cause for his or her inability to pay the full amount due (financial hardship shall constitute just cause), and ~~said~~ the customer

(i) pays a reasonable portion (not to exceed \$10 or one tenth (~~1/10~~) of the bill, whichever is less one third () of all amounts due, unless the customer agrees to a greater portion) of the bill and the customer:

(ii) (AA) agrees to pay the remainder of the outstanding bill within three (3) months; and in equal monthly installments;

(iii) (BB) agrees to pay all undisputed future bills for sewage disposal service as they become due; and

(iv) (CC) has not breached any similar agreement with the utility sewage disposal company made pursuant to under this rule within the past twelve (12) months. ~~Provided, however that~~

(ii) In deciding on the reasonableness of a particular payment arrangement, the sewage disposal company shall consider the following:

(AA) The customer's ability to pay.

(BB) The size of the unpaid balance.

(CC) The customer's payment history and length of service.

(DD) The amount of time the debt has been and the reasons why the debt is outstanding.

(iii) The payment arrangement shall provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. The utility shall provide the customer with contact information for the available public assistance programs of which it is aware.

(iv) The payment arrangement is subject to amendment upon the customer's request if there is a change in the customer's financial circumstances.

(v) The sewage disposal company may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to Rule 13(B); under section 1(h) of this rule. Provided further, that the above terms of the agreement shall be put in writing by the sewage disposal company and ~~signed by~~ sent by mail to the customer. ~~and by a representative of the company.~~ Only one (1) late payment charge may be made to the customer under this section.

(G) If the customer does not meet any of the conditions in clause (F), the sewage disposal company may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(H) The sewage disposal company shall reconnect sewage disposal service to a customer as soon as reasonably possible but at least within one (1) working day after the sewage disposal company is requested to do so if the customer has satisfied the requirements of this rule.

(~~E~~) (I) If a customer is unable to pay a bill, which is unusually large due to prior incorrect ~~reading of the water meter,~~ billing, incorrect application of the rate schedule, incorrect connection or functioning of the water meter, prior estimates where no actual reading was taken for over two (2) months, stopped or slow water meter, or any human or mechanical error of the sewage disposal company, and the customer:

(i) Pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve

- (12) bills immediately preceding the bill in question; and
 (ii) Agrees to pay the remainder at a reasonable rate; and
 (i) makes a payment arrangement in accordance with the guidelines set forth in clause (F); and
 (iii) (ii) agrees to pay all undisputed future bills for **sewage disposal** service as they become due; provided, however, that the **sewage disposal** company may not add to the outstanding bill any late fee. Provided, further, that the above terms of the agreement shall be put in writing by the **sewage disposal** company and signed by sent by mail to the customer. and a representative of the company.
 (2) If a customer proceeds with a review pursuant to Rule 16.1(B), the **sewage disposal** company may disconnect only as provided in Rule 16.1(C).

(e) (d) The time requirements for disconnections are as follows:

- (1) No **sewage utility disposal company** may disconnect **sewage disposal** service unless it the disconnecting is done between the hours of 8:00 a.m. and 3:00 p.m., prevailing local time. Disconnections pursuant to Rule 16(B) under subsections (a) and (b) are not subject to this limitation.
 (2) A The **sewage disposal** company may not disconnect service for nonpayment:
 (A) on any:
 (i) Friday after noon;
 (ii) Saturday;
 (iii) Sunday; or
 (iv) other day on which the company office is closed to the public **sewage disposal** company's offices are not open for business; or
 (B) after twelve noon (12:00 noon) of the on any day immediately preceding any before a day on which the company office is **sewage disposal** company's offices are not open to the public for business.

(4) (e) Requirements for notice required prior to before involuntary disconnection are as follows:

- (1) Except as otherwise provided herein, **sewage disposal** service to any residential customer shall not be disconnected for a violation of any rule or regulation of a **sewage disposal** company or for the nonpayment of a bill, except after fourteen (14) days prior written notice to such the customer by either:

(A) mailing the notice to such the residential customer at the address shown on the records of the utility; **sewage disposal** company; or

(B) personal delivery of the notice to the residential customer or a responsible member of his or her household at the address shown on the records of the **sewage utility disposal** company.

(C) No disconnect notice for nonpayment may be rendered prior to before the date on which the account becomes delinquent.

(2) The notice must be in language which that is clear, concise, and easily understandable to a layman layperson and shall state the following in separately numbered large type or printed paragraphs:

(A) The date of the proposed disconnection.

(B) The specific actual basis and reason for the proposed disconnection.

(C) The telephone number of the **sewage disposal** company office at which the customer may call during the regular business hours in order to question the proposed disconnection or seek information concerning his or her rights.

(D) The local and toll-free telephone numbers and office hours of the commission.

(E) A reference to the pamphlet or the copy of the rules furnished to the customer pursuant to Rule 16.2 under section 6 of this rule for information as to the customer's rights.

(F) Information as to the customer's rights, under this rule, including, but not limited to, the following:

(i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency under subsection (c).

(ii) That the customer may file a complaint with the **sewage disposal** company or the commission.

(iii) That if the complaint is not resolved by the **sewage disposal** company to the customer's satisfaction, the customer may file a complaint with the commission.

(iv) That the customer may make payment arrangements under subsection (c)(2)(F).

(e) (f) The procedure for involuntary disconnection shall be as follows:

- (1) Immediately preceding the actual disconnection of **sewage disposal** service, the employee of the **sewage disposal**

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company designated to perform ~~such~~ the function shall make a reasonable attempt to identify himself or herself to the customer or any other responsible person then upon the premises and shall make a record thereof to be maintained for at least thirty (30) days.

(2) The employee shall have in his or her possession information sufficient to enable him or her to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review under ~~Rule 16.1(B)~~ **section 5 of this rule**. Upon the presentation of such credible evidence, **sewage disposal** service shall not be disconnected.

(3) The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the **sewage disposal** service from being disconnected. The sewage disposal company shall notify its customers pursuant to ~~Rule 16.2~~ **under section 6 of this rule** of its policy with regard to the acceptance or nonacceptance of payment by ~~such~~ the employee, and shall uniformly follow ~~such~~ the policy without discrimination.

(4) When the employee has disconnected the **sewage disposal** service, he or she shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that **sewage disposal** service has been disconnected and stating the address and telephone number of the **sewage disposal** company where the customer may arrange to have **sewage disposal** service reconnected.

(f) (g) Requirements for reconnection are as follows:

(1) A sewage disposal company may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the **sewage disposal** company's filed tariffs, to compensate the **sewage disposal** company for the costs of disconnecting and reconnecting the **sewage disposal** service. The **sewage disposal** company shall inform its customers of ~~such~~ the reconnection charge pursuant to ~~Rule 16.2~~ **under section 6 of this rule**.

(2) If the **sewage disposal** company disconnects **sewage disposal** service in violation of the rules, the **sewage disposal** service shall immediately be restored at no charge to the customer.

(3) The **sewage disposal** company must reconnect the **sewage disposal** service to the customer as soon as reasonably possible but at least within five (5) working days after requested if conditions permit; provided, however, that the **sewage disposal** company shall not be required to reconnect the **sewage disposal** service until:

(A) the conditions, circumstances, or practices ~~which~~ **that** caused the disconnection have been corrected; and

(B) payment of all delinquent and reconnection charges owed the ~~utility~~ **sewage disposal company** by the customer and any deposit authorized by ~~these rules~~ **this article** has been made.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 16; filed Dec 9, 1981, 10:20 a.m.: 5 IR 17; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 12. 170 IAC 8.5-2-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 8.5-2-5 Complaints and review

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-2-34.5

Sec. 5. Complaints and Review. (a) ~~Complaint~~ **The procedure for customer complaints to the sewage disposal company is as follows:**

(1) ~~A An applicant or~~ customer may complain at any time to a sewage disposal company about any bill, ~~which is not delinquent at that time~~, security deposit, disconnection notice, or any other matter relating to its **sewage disposal** service and may request a conference thereon. ~~Such~~ **The** complaints may be made in person, **by telephone**, in writing, or by completing a **written or electronic** form available from ~~either the Commission or from the sewage disposal company, at its business offices~~. A complaint shall be considered filed upon receipt by the sewage disposal company, except mailed complaints shall be considered filed **as of two (2) calendar days after** the postmark date. In making a complaint ~~and/or~~ or request for conference, the **applicant or** customer shall state at a minimum, **the following:**

(A) His or her name.

(B) The service address. ~~and~~

(C) His or her telephone number.

(D) The general nature of ~~this~~ **his or her** complaint.

(2) Upon receiving ~~each such~~ the complaint or request for conference, the **sewage disposal** company **shall take the**

following actions:

- (A) Immediately notify the applicant or customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of sewage disposal service in accordance with section 4 of this rule.
- ~~(A) Shall~~ (B) Promptly, thoroughly, and completely investigate ~~such~~ the complaint, attempt to confer with the applicant or customer when requested and notify in writing, the applicant or customer of the results of ~~its~~ the sewage disposal company's proposed disposition of the complaint after having made a good faith attempt to resolve the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on the applicant or customer's credit rating.
- (C) Without the applicant or customer's permission, the sewage disposal company shall not disconnect, remove, or restrict any sewage disposal service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.
- (D) Charges that are disputed by the applicant or customer shall not be treated as delinquent while an investigation is pending.
- (E) After investigation, the sewage disposal company may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate.
- ~~(B) Such written~~ (F) If the sewage disposal company's proposed disposition is not in the applicant or customer's favor, the sewage disposal company shall notify the applicant or customer of the disposition in writing if the complaint was made in writing. If the sewage disposal company's proposed disposition is not in the applicant or customer's favor, the sewage disposal company shall notify the applicant or customer in writing or orally, if the complaint was made orally. The notification shall include contact information for the commission, including the commission's mailing address, toll-free complaint number, and local telephone number. A sewage disposal company shall direct its personnel engaged in contact with an applicant or customer to inform the applicant or customer, if he or she expresses dissatisfaction with the decision of the personnel, of the right to have the problem considered and acted upon by supervisory personnel of the sewage disposal company. A sewage disposal company shall further direct the supervisory personnel to notify the applicant or customer who expresses dissatisfaction with the decision of the supervisory personnel of the right to have the problem reviewed by the commission's consumer affairs division and shall furnish him or her the business address and telephone number of the commission. The notification shall advise the applicant or customer that if he or she is dissatisfied with the sewage disposal company's disposition, the applicant or customer may, within seven ~~(7)~~ twenty-one (21) days, following the date in which such notification is mailed, request a review of such proposed disposition by the Commission. ~~file a complaint with the commission's~~ consumer affairs division (under section 9 of this rule). The payment of a deposit as requested by the sewage disposal company shall not foreclose or in any manner affect the applicant or customer's right to appeal under IC 8-1-2-34.5 or other applicable law.
- (G) If at any time the applicant or customer files a complaint with the commission regarding a dispute with a sewage disposal company, the procedures set forth in subsection (b) shall apply. Any disconnection of the applicant or customer's sewage disposal service shall be governed by section 4 of this rule.
- (H) A sewage disposal company shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. The records shall be maintained at the office or branch office of the sewage disposal company or in the respective department office thereof where the complaints were received or any conferences were subsequently held. The written records are to be readily available upon request by the:
- (i) concerned applicant or customer;
 - (ii) applicant or customer's agent possessing written authorization;
 - (iii) commission, or
 - (iv) the office of utility consumer counselor (as established by IC 8-1-1.1).
- (I) A sewage disposal company shall, at the request of the commission, submit a report covering the previous twelve (12) month period to the commission that shall state and classify the following:
- (i) The number of complaints made to the sewage disposal company under this rule.
 - (ii) The general nature of the subject matter thereof.
 - (iii) How the complaint was received.
 - (iv) Whether a commission review was conducted thereon.

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(b) Review: The procedure for customer complaints to the commission is as follows:

(1) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. The complaints may be made in person, by telephone, in writing, or by completing a written or electronic form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the applicant or customer shall state, at a minimum, the following:

- (A) His or her name.
- (B) The service address.
- (C) His or her telephone number.
- (D) The name of the sewage disposal company involved.
- (E) The general nature of his or her complaint.

(2) Without the applicant or customer's permission, the sewage disposal company shall not disconnect, remove, or restrict any sewage disposal service that is the subject matter of the complaint while any commission review or investigation of the complaint is pending. The applicant or customer shall continue to pay all undisputed charges. In those instances when the applicant or customer and the sewage disposal company cannot agree as to what portion of a bill is undisputed, the applicant or customer shall pay on the disputed bill an amount equal to the applicant or customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the applicant or customer has received fewer than twelve (12) bills, the applicant or customer shall pay an amount equal to one-twelfth ($1/12$) of the estimated annual billing for sewage disposal service to be rendered to the applicant or customer.

(3) If the applicant or customer is dissatisfied with the sewage disposal company's notice of the sewage disposal company's proposed disposition of the complaint as provided in Rule 16.1(A)(2), he subsection (a), the applicant or customer may, request the Commission in writing within seven (7) twenty-one (21) days following the date on which such notification is mailed, to informally review the disputed issue and the company's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the sewage disposal company involved: after the postmark date of the notice, file an informal complaint with the commission's consumer affairs division.

(4) Upon receiving an informal complaint, the following actions shall be taken:

- (A) The sewage disposal company shall be notified that a complaint has been made.
- (B) The complaint shall be investigated.
- (C) The applicant or customer and the sewage disposal company shall be notified of the decision made on the complaint in accordance with applicable law.

(5) Requirements for an informal review are as follows:

(A) The applicant or customer or the sewage disposal company may make a written request that a decision made under subdivision (4) be reviewed informally by the consumer affairs director or designee. Such written request shall be made within fourteen (14) days of the decision. The records of the commission relating to the reviews shall be kept in a systematic order.

(B) Upon receiving such a request for an informal review, the Commission consumer affairs director or designee shall provide an informal review within twenty-one (21) days in a timely manner. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the applicant or customer and the sewage disposal company. within thirty (30) days after its receipt of the customer's request. Upon request by either party or the Commission, consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at such a place as the Commission may consider to be consumer affairs director or designee considers appropriate.

(2) The records of the Commission relating to such review shall be kept in a systematic order.

(6) The applicant or customer may make a written request that the commission investigate the disposition of the informal review. The written request shall be made within twenty (20) days of the consumer affairs division's notice of disposition. Before entering an order upon a commission investigation, the commission shall afford the applicant or customer and the sewage disposal company notice and an opportunity to be heard.

(7) Without the applicant or customer's permission, the sewage disposal company shall not disconnect, remove, or restrict any disputed sewage disposal service until at least twenty (20) days have elapsed from the postmark date of the consumer affairs division's disposition or the commission's order upon investigation, if any.

(8) The time frames provided in this section may be extended at the discretion of the consumer affairs division.

(e) Continuation of Service Pending Disposition of Complaint:

(1) If the customer is receiving service at the time the complaint and/or request for conference provided for in Rule 16.1(A)(1) above is received by the sewage disposal company, his service shall not be disconnected until ten (10) days have elapsed from the date of mailing of the notification of the company's proposed disposition of his complaint. Provided, however, that if a review by the Commission of the company's proposed disposition of the complaint is requested by the customer as provided by Rule 16.1(B)(1) within seven (7) days after the mailing of such proposed disposition of the complaint, the company shall not disconnect the customer's service until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the customer who has requested such review has paid and continues to pay all future undisputed bills prior to their becoming delinquent.

(2) In those instances when the customer and the company cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the twelve (12) months immediately preceding the disputed bill except in those cases where the customer has received fewer than twelve (12) bills; in which event the customer shall pay an amount equal to 1/42 of the estimated annual cost of service to be rendered to the customer.

(d) Record of Complaints:

(1) Each sewage disposal company shall keep a written record of complaints and requests for conference pursuant to Rule 16.1. Such records shall be retained at the office or branch office of the company or in the respective department office thereof where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization or the Commission.

(2) Each sewage disposal company shall annually submit a report to the Commission which shall state and classify the number of complaints made to the company pursuant to Rule 16.1; the general nature of the subject matter thereof; how received (in person, by letter, etc.) and whether a Commission review was conducted thereon.

(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 16.1; filed Dec 9, 1981, 10:20 a.m.: 5 IR 19; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

SECTION 13. THE FOLLOWING ARE REPEALED: 170 IAC 4-1-15; 170 IAC 4-1-16; 170 IAC 4-1-16.5; 170 IAC 4-1-16.6; 170 IAC 4-1-17; 170 IAC 5-1-15; 170 IAC 5-1-16; 170 IAC 5-1-16.5; 170 IAC 5-1-16.6; 170 IAC 5-1-17; 170 IAC 6-1-15; 170 IAC 6-1-16; 170 IAC 6-1-17.

SECTION 14. SECTIONS 1 through 13 of this document take effect one hundred eighty (180) days after filing with the secretary of state.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on September 22, 2004 at 10:30 a.m., at the Indiana Government Center-South, 302 West Washington Street, Training Center Room 10, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed amendments to the customer service rights and responsibilities rules for utilities. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E306 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

William D. McCarty
Commission Chairman
Indiana Utility Regulatory Commission

Attachment 2

Copy of SBC Bill

OUCC Comments on IURC RM 04-02
November 12, 2004

SBC Bill received via e-mail, Dated November 1, 2004, with identifying information removed.

The total due for SBC Local Service Charges is \$37.72, and the total payment required to avoid disconnection is listed as \$32.27. This means SBC will disconnect for nonpayment of everything other than part of the Voice Mail cost of \$5.45. According to their bills, they will disconnect for nonpayment of the Voice Mail Feature Package, for nonpayment of all Caller ID charges, and all other fees and taxes on the phone bill. SBC's classification of deniable and nondeniable charges is arbitrary.



NAME
ADDRESS
INDIANAPOLIS, IN XXXXX-XXXX

Account Number 317 xxx-xxxx xxx x
Billing Date Nov 1, 2004
Web Site www.sbc.com

Monthly Statement

Oct 2 - Nov 1, 2004

Bill-At-A-Glance

Previous Bill	38.93
Payment - Thank You!	38.93CR
Adjustments	.00
Balance	.00
Current Charges	37.72
Amount to be Debited	\$37.72
Debiting Credit Card	
5 Days Prior to	Nov 22, 2004

Billing Summary

Click Below for Details:

<u>SBC Local Services</u>	37.72
1-800-742-8771	
Repair Service:	
1-800-868-9696	
Automated Billing/Payment Arrangements:	
1-800-892-7584	

Total of Current Charges 37.72

Local Services provided by SBC Illinois, SBC Indiana, SBC Michigan, SBC Ohio or SBC Wisconsin based upon the service address location.
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News You Can Use - Summary

Click Below for Messages:

- [AVOID DISCONNECTION](#)
 - [LOCAL TOLL INFO](#)
 - [LONG DISTANCE INFO](#)
 - [RATE CHANGES](#)
 - [PRICE INCREASE](#)
 - [BEST TIMES TO CALL](#)
 - [SPECIAL NEEDS CENTER](#)
- See "News You Can Use" for additional information.

Bill Inserts

Click Below for Messages:

[Incredibles. Save the Day. Save Money.](#)



NAME
ADDRESS
INDIANAPOLIS, IN XXXXX-XXXX

Account Number 317 xxx-xxxx xxx x
Billing Date Nov 1, 2004
Questions? 1-800-742-8771

SBC Local Services

Monthly Service - Nov 1 thru Nov 30

Voice Mail Feat Pkg	1.50
Busy Line Transfer	
Alternate Answering	
Msg Wtg Audible & Visual Ind	
Star Code Access	
Caller Identification	7.95
Calling Name Display	2.00
Voice Mail	5.45
Unlimited Residence Service	11.51
Federal Access Charge	5.51
Total Monthly Service	33.92

Surcharges and Other Fees

9-1-1 Emergency System	
Billed for Indianapolis/Marion Cnty	.64
Federal Universal Service Fee	.49
Telecommunications Relay System	.06
Total Surcharges and Other Fees	1.19

Taxes

Federal at 3%	.87
State at 6%	1.74
Total Taxes	2.61

Total SBC Local Services Charges 37.72



NAME
ADDRESS
INDIANAPOLIS, IN XXXXX-XXXX

Account Number 317 xxx-xxxx xxx x
Billing Date Nov 1, 2004
Questions? 1-800-742-8771

News You Can Use

AVOID DISCONNECTION

All of the charges must be paid each month to keep your account current and avoid collection activities. However, certain charges MUST be paid in order to avoid disconnection of basic local service. Currently, for this account that amount is **\$32.27**. If you do not agree with the amount due, you should dispute the portion you disagree with before the payment due date.

LOCAL TOLL INFO

Our records show that you have SBC INDIANA or a company that resells services of SBC INDIANA as your carrier for local toll service.

LONG DISTANCE INFO

Our records indicate that you have chosen not to have a long distance company.

RATE CHANGES

Effective 1/1/05, the Operator Assisted Surcharge for Busy Line Verification will change from \$4.50 to \$6.00. The rate for Reverse Directory Assistance will change from \$1.50 to \$1.99. If you have questions, please call an SBC Service Representative at 1-800-742-8771. Thank you for choosing SBC Indiana.

PRICE INCREASE

The monthly rate for your Voice Mail mailbox is increasing from \$5.45 to \$6.49. The increase will take effect 1/1/2005. The prices for the network features that enable you to use your Voice Mail mailbox are not changing. We appreciate having you as an SBC customer. If you have questions, please contact your SBC Service Representative at 1-800-742-8771.

BEST TIMES TO CALL

Due to high call volumes experienced on Mondays and Tuesdays, it is generally quicker to reach us Wednesdays through Fridays.

SPECIAL NEEDS CENTER

Having trouble hearing on your phone or seeing Caller ID? The SBC Special Needs Center can help you find the right equipment for your needs. To find out more, please visit www.shopsbc.com and select the Special Needs Tab. Or, please call 1-800-544-5159.



NAME
ADDRESS
INDIANAPOLIS, IN XXXXX-XXXX

Account Number 317 xxx-xxxx xxx x
Billing Date Nov 1, 2004

Customer Service

For billing-related questions refer to the appropriate numbers below.
For technical questions on your Internet bill call 1-877-729-4245.

SBC Local Services

Billing questions: 1-800-742-8771

Repair Service: 1-800-868-9696

Automated Billing/Payment Arrangements: 1-800-892-7584